

G R S App F IX 4]

Previous References

**194 -**

( clb L )

File No 10-42

Serial Nos 40, 46

Later References

## **GENERAL AND REVENUE SECRETARIAT**

---

Serial Nos

Part B for Nov 42

---

### **SUBJECT**

Mr Sampurnanath vs Land Acquisition  
Office, Bangalore city

---

To

The Advocate General  
d 4545 d 4-11-42

Direct him to take further action in the  
matter

*Immediate*

*1568/42*  
*P*

No *191*

Office of the Advocate-General  
in Mysore,

Bangalore, dated 9th September 1942



Dear Sir,

Re Regular Appeal No 114 of 1940-41 on the  
file of the High Court of Mysore, ( V  
Sampangiramaiah VS The Land Acquisition  
Officer, City Municipality, Bangalore City)

*com-9 h ✓*  
*10/9/42*  
*10/9/42*

Please refer to Government Order No P 4851-4/Law 118-40-2  
dated the 26th March 1941 authorising me to appear on behalf of  
Government in the above case As the appeal has now come up in  
the list of cases for hearing, I request your kindness to send me  
for reference, immediately, all the Secretariat files relating  
to the matter They will be returned to you as soon as the -  
appeal is disposed of

*A draft and fair of letter forwarding*  
*the collections placed below to the Advocate General*  
*is put up for approval*  
*15/9*  
*m*

*M*  
*15/9/42*

Yours sincerely,

*M. K. N.*  
*namunappa*

C Narayanaswami Naidu, Esq , B A , B L ,  
Secretary to Government,  
Law Department, BANGALORE

*P 1857/10000 to Advocate General on 15-9-42 forwarding for his*  
*reference & return to secretariat collections*

*ms C*



2117/  
General and Revenue  
Secretariat

1568  
R A no 114/40 41 on the file of the  
High Court of Mysore (Sampavirramiah & A Co  
City Municipality & Bangalore)  
File No of 194 [App F III-2]

Serial  
No

D to letter no 236/dated 29th September 1942  
from the Advocate General reporting that the  
Case stands adjourned to 27th October 1942  
and requesting orders of Govt regarding the compromise  
proposed

In para 8 of the letter the Advocate General  
has set down the terms on which the case is  
to be settled on equitable grounds

Next date of hearing

27th October 1942

v. The case stands adjourned to 27th October 1942

3- The L S of Branch, if approved, will  
be submitted Gregorously the course suggested in  
the letter of the Advocate General

Revised

30/9

73

As Secy (g) - 30/9

30-9-42

M. K. S. 12/11/42

11/10/42

1 The Course suggested by the Advocate  
General in Para 8 of his letter is  
submitted for perusal orders

3/10/42

& In view of the defects  
noticed in dealing with the case  
in the office of the Land Registrar

there, being directly, as per



2) R Appk No 114 of 1942 - Highland

(Sampannamiah VS The LA Officer)

File No.

10 of 1942

General and Revenue  
Secretariat

Serial  
No

Summarised in para 7 of the  
Advocate General's letter, the Comr  
suggested in para 8 thereof for the  
settlement of the case may perhaps  
accepted

At the same time, it seems necessary  
to issue strict instructions to the  
Land Acquisition Officers not to give  
room to such irregularities as are  
brought to notice in this case in future  
action may be taken <sup>in the future</sup> after the reply to the  
Advocate General's letter.

Law secy 31/10/42



Next date  
hearing 27/10/42

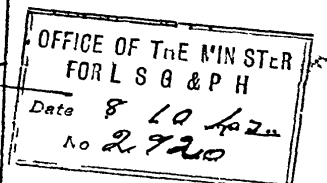
10) For purchase of land, the  
party has been allowed a  
compensation of Rs 718-12-0  
He is now proposed to be  
given Rs 2,281-4-0  
bringing the total to Rs 3000,  
His claim is for Rs 20,000  
In view of the new order  
by the High Court  
the proposal may be accepted

Member L S &

Secy

7-10-42

11) 25/10/42



R a no 114/40-41 in the file of the  
Hgh Court of Mysore Sampangamma  
vs L A S Bhowmik 1943

General and Revenue  
Secretariat

File No 2117  
102

of 1942-43

[App F III-2]

Serial  
No

The law sec has telephoned  
to the Advocate General to  
get an adjournment of  
the hearing of the case in  
the High Court for 26/10/42

12/10/42 Personal

Lawyer

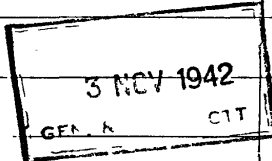
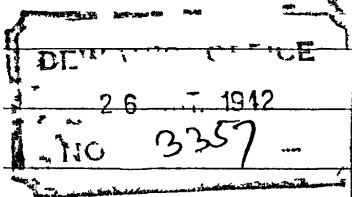
26-10/42

Am 26/10/42

26/10/42

Phone to Ad General & also to the

27/10/42



Sent with a draft letter for appl.

WVB  
3/11

3/11/42

46 To the Advocate General, Blore  
no L 4545 of 4-11-42  
Requests him to take necessary  
further action as already intimated  
To the ml Commr, Blore  
no L 4546 of 4-11-42  
Forward a copy of the above

B  
5/11

File No

of 194

General a  
Secrets

Serial  
No

Appendix F G—1]

SUBJECT

Diary No of letter replied to

General and Revenue Secretariat

( )  
the 19

Date of issue

15/9/42

Signed by

M. K. P.

- x 1) Law 36-40 sl 1-2  
2) H 33-328, 113, 114-115  
3) Md 21-378, 26, 27, 42  
63, 64, 65 and 66  
4) H 33-338, 126-127, 128, 129

List of enclosures

Copied by

Examined by

Section

File No

Serial No

No P1867/Sec four secretaries

To The Advocate General

in Mysore, Bangalore

Subject - R A no 114/40 u. on the file  
of the High Court of Mysore.

Sir,

With reference to our  
letter no 191 dated 9th September 1942  
on the above subject I am directed  
to forward herewith for your reference  
and kind return when done with  
four secretariat collections noted below

Thank etc

Sec Group Law Dept



Confidential

No

236

*True one received  
J 4 2/12*

2057642 2117  
Office of the Advocate-General  
in Mysore,  
Bangalore, dated 29th September 1942

*he 10-42-40*

Dear Sir,

Re Regular Appeal No 114 of 1940-41 on the file  
of the High Court of Mysore, (Sampangiramlah  
vs The Land Acquisition Officer, Bangalore  
City Municipality)

----

The above appeal was heard in part on 25/9/1942 by  
the learned Chief Justice and his learned colleague Mr Justice  
S Venkataranga Iyengar.

2 In the course of my argument, I put forward two ob-  
jections to the maintainability of the claim which were as -  
follows -

(a) Though the Defendant was the Land Acquisition Officer, the real person sued was the Government who would have to -  
pay if the claim should eventually be decreed, and the nature  
of the claim being such as would not come within any of the -  
clauses of Section 2 of Act VII of 1923, it was excluded by  
Section 3 thereof and so had to be rejected This was not the  
precise form of the plea taken in the District Court, (Vide  
Page 5 of the Printed Records of the case, Line 45) not was  
the exact manner in which that court viewed it, (Vide Page 22,  
Lines 20 -- 30 of the same record), and so its finding could  
not be taken as having been adverse to the Government

(b) The claim was barred under Art 2, 17 or 36 of the  
Limitation Act, IV of 1911 This plea was not taken in the -  
District Court, but that would not stand in the way of its -  
being considered in appeal as no further evidence was required  
and the plea could be based on the allegations in the Plaint  
and Plaintiff's admissions

3 The learned Chief Justice on behalf of the Bench was  
pleased to observe that it might not be just and equitable for  
the Plaintiff to be non-suited on the strength of those techni-  
calities when there were serious irregularities in the proceed-

*M*

proceedings of a responsible servant of the Government, (of the status of a Deputy Commissioner in this case) such as not causing a search to be made in the Sub-Registrar's office which would have led to the issue of notice to the claimant who held a registered mortgage (Vide Ex A, - printed on page 40 of the record) in the first instance, as he was bound by statute to do, of having omitted to hear him after he himself petitioned him on 29-11-1933 (Vide Ex III on page 57 of the Print Book), and passing an Award ex-parte on 5-9-1934, nearly ten months later without hearing him, of pleading in court that a petition (whatever may be the exact contents of it), which admitted was sent to him on 15/9/1934, (Vide Ex L, extracted in the Judgment, on page 24, Line 6 of the Print Book) was not available in the file, when, on that petition was based the main strength of the claim, lastly, omitting even to acknowledge, let alone endorsing on the petition and reminders thereto, (Vide Exhibits E and F, printed on pages 46 and 47, dated 24-6-1937 and 30-10-1937, respectively) till after the lapse of more than two years from the dates thereof (Vide Ex G, printed on page 50, dated 7-10-1939)

4 There was no doubt the strange feature of the claimant having purchased the property after possession of the property had been taken by the Land Acquisition Officer, which was a point against him, but then he had held a registered mortgage over it long before his sale and the learned District Judge had found that the compensation award by the Land Acquisition Officer at the rate of Rs 125/- an acre for land on the border of Chamarajapet Extension of Bangalore City was low (Vide Page 37\* of the Record, Line 28)

5 It will be seen from para 25 of the file, Law 21-37/Sls 26, 27, 42, 63, to 66, that the then Additional Secretary to Government (now a learned Judge of the High Court) had - been pleased to opine that the party might file another petition or that the Government might direct the Land Acquisition Officer to make a reference to the Government on the question, of adequacy of ~~reference~~ *Compensation*

6 I had noted in para 51 of the said file that there was some equity in favour of the claimant But since there was no positive or satisfactory proof that the petition filed by the Claimant on 15-9-1934 did contain in express terms, a specific request for a reference on the question of adequacy of compensation, the Government were pleased to order to await the threat of claimant's notice to take legal action

7 The position taken up by the Government has been vindicated by the Judgment of the District Court and the learned <sup>Chief Justice's</sup> ~~judicial~~ observations, if I may say so with respect, were based on equitable consideration and avoiding risk of needless exposure of <sup>discharge of</sup> (serious omissions of duties enjoined by statute of notifying interested parties in Land Acquisition proceedings, of not obeying the Standing Orders such as acknowledging the receipt of petitions and issuing endorsements on them promptly without delaying for years and ultimately losing the document itself which was the crux of the claimant's case

8 In view of all these, especially of the <sup>d</sup>fining of the learned District Judge that compensation was low, I think the party may, in consideration of his withdrawing his claim and allowing the suit to be dismissed, but without costs throughout may be paid Rs 2.281-4-0, which together with what he already received by the Award Rs.718-12-0, would make up the purchase price (Rs.3,000/-) which he might have paid nine years ago <sup>n</sup> i.e. in 1933, when he lost possession and from which time, he

10 A copy of the ~~print-book~~ relating to the case is herewith sent, for reference and kind return when done with

12 The following four collections of the Secretariat received for reference with your letter No P 1867, dated the 15th September 1942 are herewith returned -

- 1 Law 36-40/S1s 1-2  
2 M1 33-33/S1s 113, 114-116,  
3 M1 21-37/S1s 26, 27, 42, 63, 64, 65 and 66  
4 M1 33-33/S1s 126, 127, 128, 129

29-10-1946

Thode Markham  
Trumanappa

SUBJECT

Diary No of letter replied to

General and Revenue Secretariat

( )  
the 19

Date of issue

24 July 42

Signed by

W. J. R.

[Your suggestion re  
Compromise in Land  
Acq. Case No RA 114/40-41  
on the file of the High Court  
Sampandilamiah VS & A  
P. C. is accepted. Please  
take further action accordingly.  
Formal orders will follow.]

List of enclosures

Copied by

Examined by

Section

ml

File No

10-42

Serial No

46

No

L 4545

To

The Advocate General in  
Mysore, Bangalore

Sir,

In confirming the  
marginally noted <sup>telephone</sup> telegram  
message sent to you  
from Camp, Mysore, in  
connection with <sup>the</sup> RA No 114/40-41  
on the file of the High Court  
of Mysore (Sampandilamiah  
VS Land Acq. Officer P. C.)  
I am directed to  
request you to be so good  
as to take necessary

Further action as already  
stated in the telephone message

I have etc

fnr

For Secretary  
Law Dept  
5/11

Memorandum 4546 of 4/11/44

A copy of the above is forwarded  
with compliments to the  
and Commr, Prof for information.

By order

fnr

For Secretary  
Law Dept  
5/11

To the Advocate General  
Plains

From the Law Sec Camp Wyome

your suggestion re compromise  
<sup>Law Sec</sup>  
in Case no R-a 114/40-41 in  
the file of the High Court (Law Sec  
R-a 114/40-41 is  
accepted - please take further  
action accordingly. ~~written~~  
formal orders will follow

Law Sec  

---

27-10-42

2087

IN THE HIGH COURT OF MYSORE

Regular Appeal No 114 of 1940—41

BANGALORE

Sampangiramaiah

((Appellant—Plaintiff)

By Mr G Sreenivasa Rao

*e Mr - M R Janardanan*  
Vs

The Land Acquisition Officer, Bangalore  
City Municipality

(Respondent—Defendant)

By Mr

*The Advocate General*

Presented —27—2—41

|                                                                              |                                                |
|------------------------------------------------------------------------------|------------------------------------------------|
| In the Court of the<br>District Judge of Bangalore }<br>O S No 34 of 39—40 } | Plaint filed 20- 5—40<br>Decree passed 8—11—40 |
|------------------------------------------------------------------------------|------------------------------------------------|

In the High Court—Appeal filed—6—3—41

Nature of claim—Suit to recover  
Rs 11,203 being the inadequacy of compen  
sation

To be heard on

19

---

Printed by S V Govindarajan

Daily Post Press Bangalore 6—3—1942

2087

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

Bangalore, dated 4th Nov 1942

No

4545  
ml/104246

FROM

The Secretary to the Government of His Highness

the Maharaja of Mysore

Law Department

To

The Advocate General Mysore,

Y

Bangalore.

Sir,

In confirmation, the marginally noted telephone message sent to you from Camp, Mysore, in connection with the P.A. No 114/40-41 or the file of the High Court of Mysore

-----  
Your suggestion regarding compromise in Land Acquisition Case No P.A. 114/40-41 on the file of the High Court (Comptroller Ramiah VS Land Acquisition Officer, Bangalore City Municipality), I am directed to request you to be so good as to take necessary further action as already stated in the telephone message

I have the honour to be,

Yr,

Your most obedient servant,

Sd. C. Narayanaswami Maide,

Secretary to Government,

Law Department

K. .R 3. Memo No. 4546 Dated, 4th November 1942

Copy of the above is forwarded, with compliments, to the Municipal Commissioner, Bangalore City, for information

By Order,

(Loofh)

llh

For Secretary to Government,  
Law Department



# INDEX

## REGULAR APPEAL NO 114 OF 1940-41

| No | Contents                                      | Page No |
|----|-----------------------------------------------|---------|
| 1  | Plaint                                        | 1       |
| 2  | Written Statement of the defendant            | 5       |
| 3  | Plaintiff s reply                             | 8       |
| 4  | Judgment                                      | 15      |
| 5  | Decree                                        | 28      |
| 6  | Memo of costs                                 | 29      |
| 7  | Appeal memo                                   | 30      |
| 8  | List of witnesses examined for plaintiff —    |         |
| 1  | Deposition of Lakkappa P W 1                  | 34      |
| 2  | Do K N Ayyanna Setty 2                        | 34      |
| 3  | Do Abdul Hukh do 3                            | 35      |
| 4  | Do B P Nanjappa do 4                          | 36      |
| 5  | Do V Sampangi-<br>ramiah (plain<br>tiff) do 5 | 37      |
| 9  | List of witnesses examined for defendant —    |         |
| 1  | Deposition of M V Nagaraja<br>Rao D W 1       | 39      |

## 10 List of documents admitted in evidence for plaintiff—

| Distinguishing<br>letter or<br>number | Description of documents,<br>date of admission<br>and remarks                                                                                          | Page No |
|---------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|---------|
|                                       | 5—11—40                                                                                                                                                |         |
| Exhibit A—                            | Hypothecation bond dated<br>25—2 33 executed by Abdul<br>Hukh in favour of plaintiff                                                                   | 40      |
| „                                     | B—Sale deed dated 9—11—33 executed<br>by Abdul Hukh in favour of<br>plaintiff                                                                          | 43      |
| „                                     | C—Sale deed dated 25—1—34 executed<br>by the plaintiff in favour of<br>Nanjappa                                                                        | 44      |
| „                                     | D—Acknowledgment dated 15—9—34                                                                                                                         | 46      |
| „                                     | E—Notice dated 24—6—37 issued by<br>Mr D Krishna Iyengar                                                                                               | 46      |
| „                                     | F—Notice dated 30—10—37 issued<br>by Mr Girimaji Sreenivasa<br>Rao                                                                                     | 47      |
| „                                     | G—Endorsement dated 7—10—39<br>from the Municipality to<br>Mr Girimaji Sreenivasa<br>Rao                                                               | 50      |
| „                                     | H—Copy of petition dated 15—9—34<br>addressed to the Municipal<br>Commissioner                                                                         | 50      |
| „                                     | J—Endorsement dated 5—9—34 from<br>the Municipal Commissioner<br>to the plaintiff                                                                      | 51      |
| „                                     | K—Certified copy of award                                                                                                                              | 52      |
| „                                     | L—Entry No 626 in the Petition<br>Register of the Municipal<br>Office commencing from<br>No 576 dated 10—9—34<br>ending with No 1171 dated<br>23—10—34 | x       |
| „                                     | M—Acknowledgment dated 29—7—35                                                                                                                         | 53      |
| „                                     | N—Copy of Petition dated 28—7—35                                                                                                                       | 53      |

11 List of documents admitted in evidence for  
defendant —

| Distinguishing<br>letter or<br>number | Description of documents,<br>date of admission<br>and remarks, | Page No |
|---------------------------------------|----------------------------------------------------------------|---------|
|---------------------------------------|----------------------------------------------------------------|---------|

5—11—40

|                                                                                                                                            |    |
|--------------------------------------------------------------------------------------------------------------------------------------------|----|
| Exhibit I—Preliminary notice issued to<br>plaintiff's witness 3 by the<br>Municipality                                                     | 54 |
| „ II—Certified copy of order dated<br>17—5—37 in L A Mis No 88<br>of 36—37 on the file of the<br>Second Additional Sub<br>Judge, Bangalore | 55 |
| „ III—Petition dated 29-11-33 from<br>the plaintiff to the Muni-<br>pal Commissioner                                                       | 57 |
| „ IV--Plan                                                                                                                                 | x  |
| „ V - Notification dated 10—7—33                                                                                                           | 58 |
| „ VI—Acknowledgment dated 29-11-33<br>for having presented a peti-<br>tion to the Municipal Com-<br>missioner                              | 62 |
| „ VII—Statement of Sampangi Ra-<br>miah dated 23—12—35 filed<br>in Court on 4—6—36 in Mis-<br>cellaneous Case No 88 of<br>1936 37          | 62 |
| „ VIII—Receipt dated 31—5—37 filed<br>in Miscellaneous Case<br>No 88 of 36—37                                                              | 64 |

List of documents admitted in evidence for defendant—  
(Contd )

| Distinguishing<br>letter or<br>number | Description of documents,<br>date of admission<br>and remarks                                                | Page No |
|---------------------------------------|--------------------------------------------------------------------------------------------------------------|---------|
|                                       | 6 -11-40                                                                                                     |         |
|                                       | Exhibit IX—Plaintiff s petition dated<br>28-7-35 to the Municipal<br>Office                                  | 66      |
| ,,                                    | IX(a) Portion in Exhibit IX                                                                                  | 67      |
| ,,                                    | X-Plaintiff s petition dated 25-8-34<br>to the Municipal Office                                              | 67      |
| ,,                                    | XI, XI(a) —Valuation statements<br>prepared by the Municipal<br>Engineer                                     | 68--71  |
| ,,                                    | XII, XII(a), XII(b), XII(c)—Papers<br>relating to the land for<br>having taken possession of<br>Survey No 19 | 72--73  |
| ,,                                    | XIII—Reference made to Court by<br>Mr M Seshadri                                                             | 74--75  |

# Plaint.

IN THE COURT OF THE DISTRICT JUDGE, BANGALORE

Original Suit No 34 of 39—40

Plaintiff —V Sampangiramiiah, son of Gurappa, aged  
about 40 years, Oil Merchant, New Tha  
ragupet, Bangalore City

Vs

Defendant —The Land Acquisition Officer, Bangalore  
City Municipality, City Municipal Offi-  
ces, Bangalore City

Under Order VII, Rule 1 of the Civil Procedure Code,  
the plaintiff abovenamed begs to state as follows —

1 For purposes of summons etc , the addresses of the  
parties are as given above

2 The plaintiff was the full and absolute owner of  
the property referred to in the plaint schedule measuring  
about 5 acres in extent and the defendant acquired the same  
for a public purpose as per Government Order No L 204/7/M1  
33—32—114 dated 10—7—33

3 The defendant acquired the said land as belonging  
to the plaintiff and eight others and notices were issued to  
them calling upon them to state their objections and also the  
valuations of the property

4 The plaintiff duly submitted his objections and  
also the valuation of the property according to him but the  
defendant passed an award only at the rate of Rs 125 per  
acre together with 15 per cent solatium and referred the mat  
ter to the District Judge s Court, Bangalore, for being appor  
tioned amongst the various claimants including the plaintiff

5 The plaintiff duly filed his objections to the award  
passed by the defendant and submitted that it was too low,  
inadequate and improper and claimed compensation at the  
rate of Rs 4,000 per acre and also stated that he would not  
abide by the award passed by the defendant and requested  
the defendant to refer the matter to the District Judge s  
Court of competent jurisdiction in respect of the adequacy of  
the award passed This objection statement was filed by the  
plaintiff on 15—9—34, a copy of the petition has been retained  
by the plaintiff and he has also obtained an acknowledgment

from the defendant for having received the same He has also obtained a certified copy of the extract of the current register of petitions and this petition of his had been marked as No 626 and found a place in the records

5           6 In spite of the objections of the plaintiff to the adequacy of the award passed by the defendant and the plaintiff's express request for a reference to the District Court of competent jurisdiction regarding the adequacy of the award, 10 the defendant referred the matter to the District Judge's Court only with regard to the apportionment of the amount awarded amongst various claimants alleged to be interested in the property acquired and grossly neglected to make a reference to the District Court of competent jurisdiction with regard to the adequacy of the award in spite of 15 the fact that the award that was passed by him was disproportionately low and inadequate and also in spite of plaintiff's objections to the award and his request for a reference to the District Court of competent jurisdiction

20           7 The reference made by the defendant to the District Court, Bangalore in Mis Case No 58 of 34-35 was transferred to the Second Additional Subordinate Judge, Bangalore in Mis Case No 88 of 36-37 and the learned Subordinate Judge refused to consider the contentions of the plaintiff with regard to the adequacy of the award as the reference made by the defendant was only under Section 31 of the Land Acquisition Act and there was no reference at all with regard to 25 the adequacy of the award passed by him This order was passed by the learned Subordinate Judge on 17-5-37 Later the learned Subordinate Judge considered the contentions with regard to the apportionment of the award and directed that a sum of Rs 703 out of Rs 718 12 0 deposited by the defendant to be paid over to the plaintiff

30           8 The property that was acquired was situate in a busy locality and had been purchased by the plaintiff for a sum of Rs 3,000 under a registered sale deed dated 9-11-33 and he was in possession and enjoyment of the said property since then The plaintiff improved the property purchased by 35 him at considerable expense and spent nearly Rs 4,000 to level the ground etc, and improved the same and this property had been purchased by the plaintiff with a view to put up a Soap Factory over the same The property 40 acquired was eminently suited for building sites and the defendant after acquisition has derived considerable profit from the land by converting them to building sites

45           9 The award passed by the defendant is grossly inadequate, low, improper, inequitable and untenable He has 50

not taken into consideration the value of the land, the locality in which it was situate and the potential value of the property and the considerable expense to which the plaintiff had been put to in levelling up and improving the land and the market value of the lands in the vicinity at the time of acquisition of the land and the loss that would be caused to the plaintiff by the compulsory acquisition of the same

5

10 Subsequent to the order of the learned Subordinate Judge refusing to go into the question of the adequacy of the award the plaintiff duly called upon the defendant to make a competent reference with regard to the question of adequacy of the award also, but the defendant failed to do so Later a notice dated 30—10—1937 was issued to the defendant as required under Section 52 of the Mysore Land Acquisition Act, calling upon him either to make a reference to the District Court of competent jurisdiction with regard to the adequacy of the award or in the alternative claiming a compensation at the rate of Rs 4,000 per acre together with the statutory solatium and interest by way of damages After considerable delay and deliberation the defendant replied on 7—10—1939 that there was no satisfactory proof of the plaintiff having filed an application to the defendant for reference to the District Court regarding the adequacy of the award and that plaintiff's contentions could not be accepted

10

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11 The defendant is clearly liable in law to make good the loss and damages sustained by the plaintiff to the defendant having neglected and refused to make a proper reference to the competent District Court with regard to the question of the adequacy of the award On account of the defendant's failure the District Court was unable to consider the question of the adequacy of the award and could not grant any relief to the plaintiff in the matter

25

30

12 Though the plaintiff had claimed at the rate of Rs 4,000 per acre before the defendant for purposes of this suit he has very reasonably limited his claim to Rs 2,000 per acre together with solatium of fifteen per cent thereon The plaintiff is positively certain that the learned Subordinate Judge would have passed an award at the rate of at least Rs 2,000 per acre provided a proper and competent reference had been made by the defendant to the District Court regarding the adequacy of the award

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40

13 The plaintiff had already sold a site measuring 120x40 feet out of the acquired land to one Mr B P Nanjappa for a sum of Rs 400 under a registered sale deed and so far as this portion is concerned the plaintiff has not claimed any damages in the suit He has limited his claim only to the

45

50

extent of his portion i e four acres and 4306—2/3 square yards

14 The defendant is liable to pay the plaintiff at the rate of Rs 2,000 per acre for four acres and 4306—2/3 square yards acquired by him belonging to the plaintiff

15 The cause of action for the suit arose at Bangalore City on and after 17—5—1937 when the Land Acquisition Court refused to go into the question of the adequacy of the award on the ground that there was no proper reference from the defendant regarding the same and subsequently when the defendant refused to make a proper reference in spite of notice calling upon him to do so

16 The value of the subject matter of this suit for purposes of Court fee and jurisdiction is Rs 10,500 and Court fee stamps to the value of Rs 618 12 0 are herewith submitted

Details of valuation

|    |                                                                                   | Rs     | a | p |
|----|-----------------------------------------------------------------------------------|--------|---|---|
| 20 | Value of 4 acres and 4306—2/3 square yards at the rate of Rs 2,000 per acre about | 9,740  | 8 | 0 |
| 25 | 15 per cent solatium thereon for the compulsory acquisition                       | 1,462  | 8 | 0 |
|    |                                                                                   | 11,203 | 0 | 0 |
| 30 | Deduct amount granted as compensation by the defendant                            | 703    | 0 | 0 |
|    | Balance                                                                           | 10,500 | 0 | 0 |

17 Wherefore, the plaintiff prays for a decree against the defendant for Rs 10,500 with costs of suit, current interest and any other reliefs that this Hon ble Court may deem fit to grant

(Sd ) V Sampangiramiiah,  
(In Kannada),  
Plaintiff

(Sd ) G Srinivasa Rao,  
Advocate for plaintiff  
Bangalore City,  
16—5—40

‘ Verified and signed ’

## Schedule

Five acres of land acquired by the defendant in Survey No 19 of Karethimmanahalli, Kasaba Hobli, Bangalore Taluk, acquired as per Government Order No L 204-7/Ml 33-32-114, dated 10-7-33 and bounded as follows —

east—Ramachandra Rao s dry land, west—Gov- 5  
ernment drain, north—Government  
land and south—Government land

(Sd ) V Sampangiramaiah, 10

(In Kannada),

Plaintiff

Bangalore City,

16-5-40 15

— —

Written statement of the defendant 20

Under Order VIII, Rule 1 of the Civil Procedure Code, the defendant states and prays as follows —

1 This defendant denies the allegations in the plaint 25  
except such as those that are expressly admitted herein

2 This defendant denies the truth of the allegations 30  
in the plaint and puts the plaintiff to strict proof of every  
one of the averments therein

3 This defendant denies that the suit against him is  
maintainable as such

4 This defendant being a Public Servant cannot be 35  
sued in his official designation and the suit against him as  
such is not maintainable

5 Notice under Section 80 of C P C ought to be  
given and no valid or proper notice as required by the section  
has been given as required by law and (as) such the suit is not 40  
maintainable

6 The suit is not maintainable under Regulation 45  
VII of 1923

7 This defendant having acted bona fide and in his  
official capacity and having acted as such is not liable to be  
sued at all 50

8 Even if there have been (which it is respectfully submitted there has been not) any laches, he being a Crown servant cannot be sued, as anything done was done in the course of duty

5 9 Assuming but not conceding that the defendant acted in the supposed performance of his duties, no action in law will lie

10 10 As a Land Acquisition Officer the present defendant is not liable to be sued

11 The Municipal Regulation is also a bar to the suit

51 12 Without in any way conceding any of the afore said averments and pleas the defendant most respectfully prays and pleads as hereunder

20 (i) The plaintiff admittedly having submitted himself to the jurisdiction of a special tribunal under a special enactment cannot now claim to have his wrongs if any adjudicated in this Honourable Court

25 (ii) The matter once having been decided by a 'Court' under the Land Acquisition Act, cannot now be re-opened

30 (iii) The plaintiff cannot vaguely file a suit against the present defendant, has not stated who the officer who refused to make a reference in the case Miscellaneous Case No 88 of 36-37 referred

35 (iv) The matter if at all must be decided in the case and cannot be the subject matter of an action such as this

40 (v) Statutory rights and liabilities having been created and jurisdiction having been conferred upon a Special Court for the investigation of matters which might be in controversy, such jurisdiction, it is submitted is exclusive and cannot be exercised by our  
45 ordinary Courts

(vi) The order and judgment of the learned Judge referred to in para 7 of the plaint amounts to a decree which is binding on all persons

- (vii) The plaintiff having had an opportunity and having further a duty to agitate his claim before the Special Land Acquisition Judge and not having done so cannot claim relief in the Civil Courts
- (viii) The decree and or/judgment and/or Order and/or award in Mis Case No 88 of 36-37 operates as res judicata and is further binding on all parties including the plaintiff 5
- (ix) (a) S No 19 of Karethimmanahalli was acquired for being converted into sites The award was passed on 19-3-34 The case was referred to the learned District Judge on 20-11-34 under the Land Acquisition Act 10  
15
- (b) It is not admitted that the plaintiff sent or submitted any claim or objection as is referred to in the plaint
- (c) No reference was asked for under Section 18 of the Land Acquisition Act or for any reference under any other section of the same Act 20
- (d) On 15-9-34 a petition appears to have been filed merely objecting to the acquisition itself 25
- (e) The petitioner himself admittedly submitted to the jurisdiction of the Land Acquisition Courts and Offices 30
- (x) The defendant submits that he has not been guilty of any neglect or default on his part
- (xi) In any event the award passed was proper and adequate and equitable 35
- (xii) The defendant has done all that he could under the circumstances of the case
- (xiii) The defendant is not liable to any damages or other costs or interest or any amount 40
- (xiv) The defendant submits that in any event the suit claim is exaggerated
- (xv) The decision in Land Acquisition Mis Case No 88 of 36-37 is binding on all parties including the plaintiff who was the 9th claimant in that case, a copy of the order is annexed herewith 45  
50

vi) The proper and necessary parties are not impleaded or sued The suit is bad on that account also

5 The defendant prays that the suit be dismissed with full set of costs

10 Defendant  
(Sd ) G S Doraswamy Iyer,  
Government Pleader,  
15 (For defendant)  
Bangalore,  
26—8—40

20 “ Verified and signed ”

Plaintiff s Reply

25 The plaintiff begs to file the following reply to the written statement filed by the defendant —

30 1 The allegations in para 3 of the written statement of the defendant are incorrect besides being too vague The defendant has not stated how the suit as brought is not maintainable against him The suit is quite maintainable

35 2 The allegations in para 4 of the written statement of the defendant are again incorrect and untenable It is in the capacity of the Special Land Acquisition Officer, Bangalore that the defendant purported to act and failed in his duties to act and caused loss and damage to the plaintiff complained of in the suit The defendant was purporting to act as a public servant in the discharge of his duties and as such he could not be proceeded against personally or in his  
40 private capacity A proper and valid notice dated 30th October 1937 had been duly issued to the defendant This notice satisfies both the requirements of Section 80 C P C and also 51 of the Land Acquisition Act and the defendant is estopped both in Law and by his conduct from contending that he had  
45 no such notice

50 3 The contentions of the defendant in para 5 of the written statement are quite untenable and the suit is quite maintainable

4 The allegations in para 6 of the written statement of the defendant are again vague and untenable. The act VII of 1923 is no bar to the plaintiff's suit.

5 The allegations in para 7 of the written statement of the defendant are incorrect. The plaintiff submits that the defendant did not act bona fide and did not discharge his duties inasmuch as he failed to make a proper reference in spite of plaintiff's objections to the adequacy of the award. In any view of the matter the defendant was negligent in having failed to make a proper reference in the circumstances of the matter and on account of his failure and negligence the plaintiff has been put to irreparable loss and damage complained of in the suit. Besides by negligent omission in failing to make a proper reference even the Land Acquisition Court could not go into the question of adequacy of the award or grant any relief to the plaintiff.

6 The allegations in para 8 of the written statement of the defendant are incorrect and untenable. It is not clear what the defendant means by alleging that he is a Crown servant. The negligence complained of and the failure to make proper reference are certainly not part of duty the defendant as a Special Land Acquisition Officer. He was bound to make a proper reference and to refer all the matters in controversy between the parties to the Court of competent jurisdiction and his omission to do so could not be said to be in the course of duty.

7 The allegations in para 9 of the written statement of the defendant are again too vague, untenable and inconsistent with the previous allegations. Whether the defendant was acting in the special performance of his duties or not the plaintiff has his remedy at law.

8 The allegations in para 10 of the written statement of the defendant are again too vague and untenable. It is not stated by the defendant how he is not liable to be sued as Land Acquisition Officer or Special Land Acquisition Officer.

9 The allegations in para 11 of the written statement of the defendant are again untenable. The Municipalities Act is not bar to the suit and the Act does not apply to the present suit at all.

10 The defendant has not specifically pleaded or averred in the written statement in respect of the various legal pleas which he has taken but has contented himself with being too vague, general and evasive, and thereby the plaintiff

has been considerably handicapped indefinitely meeting the contentions of the defendant

11 The allegations in para 12 (1) of the written statement of the defendant are incorrect and untenable

10 12 The allegations in para 12 (2) of the written statement of the defendant are again untenable It is not clear what the defendant means by saying that the matter has been finally decided by a Court under the Land Acquisition Act If the question of the adequacy of the compensation had been gone into by the Land Acquisition Court there would have been a bar but the Land Acquisition Court refused to go into the question of the adequacy of the award as there  
15 was no competent reference to it by the defendant

13 The allegations in para 12 (3) of the written statement of the defendant are surprising It is immaterial who the officer that refused to make a reference was It is  
2, quite irrelevant for purposes of these proceedings The defendant is fully aware who the Special Land Acquisition Officer at that time was For the information of the defendant the plaintiff submits that the then Officer was Mr P H Krishna Rao  
2,5

14 The allegations (in) para 12 (4) of the written statement of the defendant are again surprising The contention of the defendant is on the face of it untenable The plaintiff's grievance is that the matter could not be decided in the  
30 Land Acquisition Case as the Court was precluded from going into the question on account of a gross mistake committed by the defendant in not making a proper reference

15 The allegations in para 12 (5) of the written statement of the defendant are incorrect, vague and untenable for purposes of these proceedings This Honourable Court has ample jurisdiction to try the suit and there is no bar against jurisdiction  
3,5

16 The allegations in para 12 (6) of the written statement are untenable The previous award binds the party so far as it goes but the question of the adequacy of the compensation not having been adjudicated finally by the Land Acquisition Court there is no question of res judicata or estoppel so far as this suit is concerned  
40  
45

17 The allegations in para 12 (7) of the written statement are very surprising The plaintiff's contention is that he had no opportunity to agitate the claim before the Land Acquisition Court He could not agitate the question  
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It is clear from the order of the Court regarding its competency to go into the question of the adequacy of the award. There is no provision under the Land Acquisition Act for the Court to go into the question not referred to by the Land Acquisition Officer. The reference by the defendant being a limited reference only with regard to the apportionment of the award the Court was precluded by the conduct of the defendant to go into the question of the adequacy of the award.

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18 The allegations in para 12 (8) of the written statement are prima facie untenable besides being too vague. No question of res judicata or estoppel arises.

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19 The allegations in para 12 (9) (a) are no doubt correct except the fact that the reference was not a full and proper reference arising in the circumstances of the matter but was a limited reference on account of the negligence of the defendant.

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20 The allegations in para 12 (9) (b) of the written statement are again incorrect, untenable and inconsistent with the allegations in para 12 (9) (d) of the written statement. The plaintiff affirms that he did object to the adequacy of the award and did request the defendant to refer the matter to the District Court of competent jurisdiction and did not accept the quantum of compensation awarded by the defendant.

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25

21 The allegations in para 12 (9) (c) of the written statement are again incorrect and untenable. The plaintiff affirms that he requested the defendant to make a proper reference in respect of the adequacy of the compensation to a Court of competent jurisdiction. The plaintiff has clearly stated in the petition that he was not prepared to accept the award passed by the defendant and that he wanted the matter to be referred to the Court of competent jurisdiction and claimed a compensation at not less than Rs 4,000 per acre. There was absolutely no room for the defendant to have mistaken the allegations in the petition filed by the plaintiff in the matter as in spirit and in essence it was only a request to refer the matter to the Court of competent jurisdiction regarding the adequacy of the award and the plaintiff had unequivocally stated therein that he would not accept the award passed by the defendant as it was too inadequate.

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22 The allegations in para 12 (9) (d) of the written statement are incorrect. It was not merely an objection to acquisition but it was an objection to the adequacy of the award that was the gist of the petition and the main relief claimed by the plaintiff in the petition was that the matter

45

50

should be referred to the Court of competent jurisdiction regarding the adequacy of the award

5           23   The allegations in para 12 (9) (e) are again incorrect and untenable. The petitioner had submitted to the jurisdiction of the Court but there being no proper reference the matter has not been decided. As a matter of fact the plaintiff gave a further chance to the defendant in the notice issued to him to make a proper reference even at that stage, but the defendant refused to do so and took an inordinately long time to reply to the notice issued on behalf of the plaintiff

10           24   The reasons given by the defendant for not making a proper reference are quite incorrect, insufficient and untenable in law

51           25   The allegations in para 12(10) of the written statement are incorrect and too vague. The plaintiff affirms that it is on account of the neglect and default on the part of the defendant that the plaintiff is put to loss and damage alleged in the plaint and also on account of the refusal of the defendant to make a proper reference even when his attention was drawn to it and even when a notice calling upon him to do so was issued

20           26   The allegations in para 12 (11) of the written statement are quite incorrect and untenable. The award is prima facie improper, inadequate and inequitable

30           27   The allegations in para 12 (12) of the written statement are quite incorrect. The plaintiff's contention is that the defendant has not done what he should do in the circumstances of the case. As a matter of fact the whole suit is based on the contention that the defendant has not done what he should do and on account of his default and negligence he has caused loss and damage to the plaintiff as alleged in the plaint. The defendant is clearly liable to pay damages etc., claimed in the plaint. As a matter of fact if there was a proper reference by the defendant and if the award had been modified by the Land Acquisition Court he should have been liable to pay according to the modified award and there is no reason why the defendant should not be liable for the damages caused to the plaintiff by his negligence and default in not making a proper reference and thereby depriving an opportunity to the plaintiff to have the award duly modified

45           28   The allegations in para 12 (14) of the written statement are very vague and untenable. The suit claim is not excessive by any means and is very reasonable and moderate. As a matter of fact the plaintiff has suffered loss and

damage to a greater extent than alleged in the plaint but has filed a suit only for reasonable damages

29 The allegations in para 12 (15) of the written statement is only a repetition of the previous allegations and are too vague and untenable It is quite clear from the copy of the award and also the proceedings of the Land Acquisition Court that the question of the adequacy of the compensation could not be gone into by the said Court, as there was no proper reference

5

30 The allegations in para 12 (16) of the written statement are quite incorrect and vague The suit is not bad for misjoinder of parties as the only necessary party is the defendant and the suit is not bad on account of any such misjoinder or nonjoinder

10

31 The written statement of the defendant does not disclose any valid, proper or tenable defence and is full of vague and untenable allegations and they do not properly meet the specific allegations made in the plaint

15

32 The allegations in the written statement of the defendant contrary to those contained in this plaint and reply are quite incorrect and untenable

20

33 The defendant has not made it clear even now why he did not make a proper reference even when his attention was drawn to the imperfect reference he had made and when he was called upon to make a proper reference regarding the adequacy of the award and the allegations in the written statement do not constitute any justification in law or fact for the defendant's failure to act up to the terms of the notice The plaintiff's suit claim is quite just, proper, moderate and by no means imaginary or excessive The plaintiff could not seek any other remedy in law, except by way of filing this suit for getting redress against the defendant in the matter

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34 Wherefore, the plaintiff prays for a decree as per his plaint

(Sd ) V Sampangiramiyah,

(In Kannada)

Plaintiff

40

(Sd ) G Srinivasa Rao,

Advocate for plaintiff

45

Bangalore City,

11th September 1940

"Verified and signed

50

## IN THE COURT OF THE DISTRICT JUDGE, BANGALORE

Original Suit No 34 of 1939—40

Bangalore, dated 8—11—40

Present

G Paramasiviah, Esqr, B A, LL B,

District Judge, Bangalore

Plaintiff —V Sampangi Ramiah

Vs

Defendant —The Land Acquisition Officer, Bangalore  
City Municipality

Suit for the recovery of Rs 10,500 (Rs 9,740 8 0 being the value of 4 acres and odd of land at the rate of Rs 2,000 per acre and Rs 1,462 8 0 being statutory allowance, in all Rs 11,203 minus Rs 703 amount already given as compensation) as damages incurred by the plaintiff as the defendant having neglected and refused to make a proper reference to the District Court, Bangalore, with regard to the inadequacy of compensation etc Suit was filed on 16—5—40

The statement of the defendant was filed on 26—8—40 and the reply by the plaintiff was filed on 11—9—40 The suit came on for settlement of issues on 13—9—40 and the following issues were framed —

- (1) Is not the suit maintainable for the various reasons pleaded by the defendant ?
- (2) Has this Court no jurisdiction to entertain this suit ?
- (3) Is there no proper notice given by the plaintiff to the defendant ?
- (4) Does the decision in Mys Case No 88 of 36—37 operate as Res judicata or estoppel to the present suit ?
- (5) Was the defendant negligent in not making a proper reference to the Court and has the plaintiff sustained any loss or damage in consequence thereof ?

(6) Was the award passed by the defendant, just, reasonable and equitable ? and

(7) To what relief is the plaintiff entitled ?

The suit came on for hearing on several dates and finally came on for arguments on 6—11—40

The list of witnesses examined in the case are separately filed as also the list of exhibits on both sides 5

The Court pronounced the following judgment

### JUDGMENT

10

1 The plaintiff has brought this suit for the recovery of Rs 9,740-8-0 being the value of four acres and odd of land at the rate of Rs 2,000 per acre and Rs 1,462-8-0 being the statutory allowance, claiming in all Rs 11,203 after giving 15 deduction to Rs 703 being the amount already received by him alleging inter alia in the plaint that the amount claimed as above represents the damage incurred by him as the result of the defendant's refusal or negligence to make a proper reference to the District Court with regard to the inadequacy of the compensation awarded The facts as stated in the plaint are as follows — 20

The plaintiff was the full and absolute owner of the property mentioned in the suit schedule and the defendant acquired the land after issuing notices to him and eight others calling upon them to state their objections The plaintiff duly submitted his objections and also the valuation of the property but the defendant passed an award only at the rate of Rs 125 per acre together with 15 per cent statutory allowance and referred the matter to the District Judge's Court, Bangalore, for the amount being apportioned amongst the various claimants including the plaintiff The plaintiff contended before the defendant that the amount awarded was too low, inadequate and improper and claimed compensation at the rate of Rs 4,000 per acre He also contended that he would not abide by the award passed by the defendant and requested the defendant to refer the matter to the District Judge's Court for adjudication in respect of the adequacy of the award passed He filed the above objection statement on 15—9—1934 by retaining a copy thereof He also obtained an acknowledgment from the defendant for having received the said objection statement He has obtained a certified copy of the Current Register of Petitions The defendant referred the matter to the District Judge's Court only with regard to the apportionment of the amount awarded amongst the various claimants alleged to be interested in the property 25 30 35 40 45 50

acquired and grossly neglected to make a reference to the District Court of competent jurisdiction with regard to the adequacy of the compensation in spite of objections of the plaintiff as regards the adequacy of the award passed by the defendant and the plaintiff's expressed request for a reference to the District Court in regard to the adequacy of the award

5 The reference made by the defendant to the District Court, Bangalore in Mis Case No 58 of 1934—35 was transferred to the Second Additional Subordinate Judge, Bangalore in Mis Case No 88 of 1936—37 and the learned Subordinate Judge refused to consider the contentions of the plaintiff in

10 regard to the adequacy of the award as the reference made by the defendant was only under Section 31 of the Land Acquisition Act and as there was no reference with regard to the adequacy of the award The above order was passed by the learned Subordinate Judge on 17—5—37 The learned

51 Subordinate Judge passed an order on the reference made by the defendant directing a sum of Rs 703 out of Rs 718-12-0 deposited by the defendant to be paid over to the plaintiff The property was situated in a busy locality and had been purchased by the plaintiff for a sum of Rs 3,000 under the

20 registered sale deed dated 9—11—33 and he was in possession and enjoyment of the same since then He improved the property by spending nearly Rs, 4,000 in order to get it levelled etc He purchased the property with a view to locate a Soap Factory Moreover the property was eminently suited for

25 building sites and the defendant after having acquired it derived considerable profit by converting the land into building sites The award passed by the defendant is grossly inadequate, low, improper, inequitable and untenable as he has not taken into consideration the value of the land and

30 the locality in which it was situated and the potential value of the property and also the considerable expense to which the plaintiff was put to in getting it levelled up He has not also taken into consideration the market value of the lands in the vicinity at the time of the acquisition and the loss

35 that would be caused to the plaintiff by the compulsory acquisition of the same Subsequent to the order of the learned Subordinate Judge refusing to go into the question of the adequacy of the award, the plaintiff called upon the defendant to make a competent reference with regard to the adequacy of the award also, but the defendant failed to do so

40 Later a notice dated 30—10—1937 was issued to the defendant as required under Section 52 of the Mysore Land Acquisition Act calling upon him either to make a reference to the District Court of competent jurisdiction with regard to the

45 adequacy of the award or in the alternative claiming a compensation at the rate of Rs 4,000 per acre together with statutory solatium and interest by way of damages After considerable delay and deliberation the defendant replied on

7—10—1939 stating that there was no satisfactory proof of the plaintiff having filed an application to the defendant for a reference being made to the District Court regarding the adequacy of the award, and that therefore the plaintiff's contention could not then be accepted. In the circumstances the defendant is liable to make good the loss and damages sustained by the plaintiff as the result of the defendant having neglected and refused to make a proper reference to the Court in regard to the question of adequacy of the award

2 The defendant's written statement is as follows —  
 The defendant denies the truth of the allegations in the plaint and puts the plaintiff to the strict proof of the same and he denies that the suit against him is maintainable as such. He being a public servant cannot be sued in his official designation and the suit against him as such is not maintainable. No proper and valid notice under Section 80 of the Code of Civil Procedure has been given as required by Law and as such the suit is not maintainable. Regulation VII of 1923 bars the suit. The defendant having acted bona fide and in his official capacity he is not liable to be sued at all. Even if there have been any laches, he being a Crown servant cannot be sued as anything done was done in the course of his official duty. Even assuming that he acted in the supposed performance of his duties no action will lie in law as against him. As a Land Acquisition Officer the present defendant is not liable to be sued. The Municipal Regulation is also a bar to the suit. The plaintiff admittedly having submitted to the jurisdiction of a special Tribunal under a special enactment cannot now claim to have any of his wrongs adjudicated in this Court. The matter having already been decided by a competent Court under the Land Acquisition Act cannot be re-opened. The plaintiff cannot vaguely file a suit against the present defendant without stating who the Officer that refused to make a reference in *Mis Case No 88 of 36-37* was. The matter ought to have been decided in the Land Acquisition Case and cannot be the subject matter of an action in a suit as the present one. Statutory rights and liabilities having been created and jurisdiction having been conferred on a special Court for the investigation of the matters which might be in controversy, such jurisdiction is exclusive and cannot be exercised by ordinary Courts. The order or judgment of the learned Judge referred to in para (7) of the plaint amounts to a decree which is binding on all persons. The plaintiff having got an opportunity and having a further duty to agitate his claim before the Land Acquisition Judge and not having done so, cannot claim relief in the Civil Courts. The decree and judgment or order under an award in *Mis Case No 88 of 36-37* operates as *res judicata*. The land in question was acquired for being converted into sites and the

award was passed on 19—3—34 The case was referred to the District Court on 20 11—34 under the Land Acquisition Act It is not true that the plaintiff sent or submitted any claim objection as stated in the plaint No reference was asked for under Section 18 of the Land Acquisition Act or for any reference being made under any other section of the same Act On 15 9—34 a petition appears to have been filed before the Land Acquisition Court itself The petitioner himself admitted that he submitted to the jurisdiction of the Land Acquisition Court The defendant is not guilty of neglect or default on his part In any event the award passed was proper, adequate and equitable and the defendant has done all that he could in the circumstances of the case The defendant is not therefore liable to any damages or other costs or interest or for any amount and the suit claim in any event is exaggerated The proper and necessary parties are not impleaded or sued and therefore the suit is bad on that account also

3 The plaintiff's reply is as follows —

The allegations of the defendant as regards non maintainability of the suit are too vague It is in the capacity of the Special Land Acquisition Officer, Bangalore, that he purported to act and failed in his duties to act and caused loss and damage to the plaintiff He was purporting to act as a public servant in the discharge of his duties and as such he could not be proceeded against personally or in his private capacity A proper and valid notice dated 30th October 1937 had been duly issued to the defendant and this notice satisfied both the requirements of Section 80 of the Civil Procedure Code and Section 51 of the Land Acquisition Act and the defendant is estopped both in law and by his conduct from contending that he had no such notice Act VII of 1923 is no bar to the plaintiff's suit The defendant had not acted bona fide and did not discharge his duties inasmuch as he failed to make a proper reference in spite of plaintiff's objections to the adequacy of the award In any view of the case the defendant was negligent in having failed to make a proper reference in the circumstances of the case and as the result thereof the plaintiff has been put to irreparable loss and damages complained of in the suit In the absence of a proper reference the Land Acquisition Court could not go into the question of the adequacy of the award or to grant any relief in that respect The negligence complained of and the failure to make a proper reference are certainly not part of the duty of the defendant as a Special Land Acquisition Officer and he was bound to make a proper reference in regard to all matters in controversy between the parties, to the Court of competent jurisdiction and his omission to do so could not be said to be in the course of his duty Whether he was acting in the

special performance of his duties or not the plaintiff has his remedy at law. The Municipal Act is not a bar to the suit and the Act does not apply to the present suit at all. It is not clear how the matter has been finally decided by Court under the Land Acquisition Act. If the question of adequacy of the compensation has been gone into by the Land Acquisition Court, there would have been a bar but the Land Acquisition Court has refused to go into the question of the adequacy of the award as there was no competent reference made to it by the defendant. It is immaterial who the officer that refused to make a reference was and the defendant is fully aware who the Special Land Acquisition Officer was at that time. However for the information of the defendant, the plaintiff submits that Mr P H Krishna Rao was then the Land Acquisition Officer. The previous award binds the parties so far as it goes, but the question of the adequacy of compensation not having been adjudicated finally by the Land Acquisition Court there is no question of res judicata or estoppel so far as this suit is concerned. The plaintiff could not agitate the question is clear from the order of the Court regarding its competency to go into the question of the adequacy of the award. There is no provision under the Land Acquisition Act for the Court to go into the question not referred to by the Land Acquisition Officer and the reference by the defendant being a limited reference only with regard to the apportionment of the award, the Court was precluded by the conduct of the defendant to go into the question of adequacy of the award, and no res judicata or estoppel arises in this case. The plaintiff did object to the adequacy of the award and did request the defendant to make a reference to the District Court of competent jurisdiction and he did not accept the quantum of compensation awarded by the defendant. There was absolutely no room for the defendant to have mistaken the allegations in the petition filed by the plaintiff on 15-9-34 in the matter as in spirit and essence, it was only a request to make a reference to the Court of competent jurisdiction regarding the adequacy of the award and the plaintiff has unequivocally stated that he would not accept the award passed by the defendant as it was inadequate. As a matter of fact the plaintiff gave a further chance to the defendant in the notice issued to him, to make a proper reference even at that stage but the defendant refused to go into the question and took inordinately long time to reply to the notice issued on behalf of the plaintiff. The defendant is clearly liable to pay damages claimed in the plaint. As a matter of fact if there was a proper reference made by the defendant and if the award had been modified by the Land Acquisition Court he should have been liable to pay according to the modified award and there is no reason why the

defendant should not be liable for the damages caused to the plaintiff by his negligence and default in not making a proper reference and thereby depriving an opportunity to the plaintiff to have the award duly modified. The suit claim is not at all excessive and as a matter of fact the plaintiff has suffered greater loss and damage than alleged in the plaint, but has claimed only a reasonable amount by way of damages. The suit is not bad for mis-joinder or non joinder of parties as the only necessary party is the defendant. The plaintiff could not seek any other remedy in law except by way of filing this suit for getting redress against the defendant.

4 The facts regarding which, there is practically no controversy are as follows —

15 The Government as per Exhibit V dated 10—7—33 notified the acquisition of Survey No 19 measuring 5 acres and assessed at Rs 6 of Karethimmanahalli of Bangalore, Kasaba Hobli for the purpose of laying it out into sites for allotment to the men discharged under the reorganization of  
20 Infantry Regiments and the above notification was published as required by Section 4, Sub Section (1) of the Land Acquisition Act. It was also notified that under Sub Section (4) of Section 17 of the said Act, the provisions of Section 5(a) of the Act shall not apply to the acquisition of the land in ques-  
25 tion in view of the urgency of the case. By another notification of the same date the Municipal Commissioner, Bangalore City Municipality was appointed to perform the functions of the Deputy Commissioner under the Act and under Sub-Section (1) of Section 17 of the Act the Government  
3 further directed that the possession of the land may be taken on the expiry of 15 days from the date of publication of the notice mentioned in Section 9, Sub Section (1) of the Act. In the above notification Abdul Sattar bin Mohamed Ghouse was mentioned as Khatedar and P W 3 Abdul Huk as the  
3 then owner of the land. The valuation statements Exhibits XI and XI(a) were prepared on 2—2—33 and the possession of the land was taken over from P W 3 on 15—9—33 as per note made on the back of the plan Exhibit IV, after he was notified under Sections 9 and 10 of the Land Acquisition Act and as  
40 per Exhibit I dated 20—7—33, the said notice purports to have been served on him on 22—8—33. Exhibits XII, XII(a), XII(b) and XII(c) which are spoken to by D W 1 Nagaraja Rao, Clerk, Bangalore City Municipal Office, relate to matters connected with taking delivery of possession of the land from  
45 P W 3. Exhibit K is a copy of the award passed under Section 11 of the Land Acquisition Act under which Rs 625 was fixed as compensation at Rs 125 per acre and a sum of Rs 93-12-0 was allowed in addition as statutory allowance at 15 per cent, the total amount thus awarded being Rs 718-12-0. The said  
50

award was passed on 19—3—34 and the plaintiff was informed as per Exhibit J dated 5—9—34 that a sum of Rs 718-12-0 had been awarded in respect of the land in question and that the amount would be sent to the District Court, Bangalore for disposal under Section 31 of the Land Acquisition Regulation. In Exhibit J an application presented by the plaintiff to the Municipal Commissioner is referred to and it is Exhibit X. In Exhibit X another application presented by the plaintiff on 19—11—33 is referred to and it is Exhibit III. Exhibit B is a registered sale deed executed by P W 3 Abdul Hukh in favour of the plaintiff on 9—11—33 as regards the survey number in question for Rs 3,000. From the facts stated above it is seen that the plaintiff was not the owner of the land at the time it was taken possession of on 15—9—33 from P W 3 who was then admittedly the owner of the land. Therefore the plaintiff could not be notified as regards the acquisition of the land, regarding which the plaintiff appears to have presented the application Exhibit III for the first time on 29—11—33. He has stated in Exhibit III that the land was in his possession since two years prior to 29—11—33 under registered deeds of hypothecation, mortgage and sale, that he had gone near the land on 16—11—33 with a view to get an estimate prepared for locating a Soap Factory and saw demarcations having been made in the land by dividing it into sites, that he was informed by the neighbours that the Municipality had done it and that he requested to be informed as to why the land was demarcated without his knowledge though he happened to be the owner thereof. On the back of the said application a note was made on 18—1—34 to the effect that the land in question had already been taken possession under Section 17 of the Land Acquisition Act from one Abdul Hukh (P W 3), that the plaintiff's claim might be considered at the time of making payments to P W 3 and that the sites have already been marked and sold. The then Municipal Commissioner Mr M Seshadri ordered that the plaintiff might be included as a claimant while sending the amount to Court. The plaintiff presented another petition Exhibit X on 25—8—34 complaining that he had not been informed of anything by way of reply to his application dated 29—11—33 (Exhibit III) and requesting for an endorsement being issued to him immediately in the matter. As already stated Exhibit J dated 5—9—34 was sent to the plaintiff by way of reply to Exhibit X that a sum of Rs 718 12 0 had been awarded and that the amount would be sent to the District Court, Bangalore, for disposal under Section 31 of the Land Acquisition Regulation. Then a reference was made to this Court as per Exhibit XIII dated 15—11—34 under Section 31 of the Land Acquisition Regulation for a judicial apportionment of the amount awarded amongst 9 claimants mentioned therein including the plaintiff who was treated

as the 9th claimant On 28—7—35 the plaintiff appears to have sent a requisition to the Municipal Commissioner, of which Exhibit I is a copy mentioning that a notice had been received by the plaintiff from this Court as regards the reference made by him, that on referring to the papers in this Court he found that no reference about the extra compensation claimed by his letter dated 15—9—34 had been made, that unless a reference was made to Court the Judge would not enquire about the value of the land, that he would be put to very great loss if no reference was made as regards the value of land, that he did not know the reason why it was not referred to the District Judge although he requested in his letter of 15—9—34 and that if no reference was made the Municipality would be held responsible for his losses It is in regard to the alleged letter dated 15—9—34 which it is referred to in Exhibit X there is disagreement between the parties This matter will be referred to in much more detail later on at the time of considering the 5th issue in the case which is to the effect whether the defendant was negligent in not making a proper reference to the Court and whether the plaintiff has sustained any loss or damage in consequence thereof

5 At this stage I propose to deal with some of the technical objections urged on behalf of the defendant as regards the non maintainability of this suit and the want of jurisdiction of this Court to entertain this suit, regarding which issues 1 and 2 have been framed It is contended that the suit is not maintainable under Regulation VII of 1923 The said Regulation provides for suits against Government in certain matters specified therein and inasmuch as this suit is not against Government, the said Regulation is not applicable to the facts of the present case It is again urged that the Municipal Regulation is also a bar to this suit but the learned counsel for the defendant was unable to show how the said objection is tenable The only preliminary objection which appears to have some force is, that statutory rights and liabilities having been created and special jurisdiction having been conferred upon a Court for the investigation of matters coming under the Land Acquisition Act this Court cannot entertain the present suit inasmuch as the controversies between the parties have been decided in Miscellaneous Case No 88 of 1936—37 It is further urged that the plaintiff having submitted himself to the jurisdiction of a special tribunal under a special enactment cannot now claim to have his wrongs, if any, adjudicated in this Honourable Court It is admitted that the question as to the adequacy or otherwise of the amount of compensation was not considered in the said miscellaneous case and as a matter of fact the plaintiff's allegation is that the Land Acquisition Officer refused to make a reference under Section 18 of the Land Acquisition Act

even though a request was made. In these circumstances it is futile to contend that the question as regards the amount of compensation was decided in that case. If the allegation of the plaintiff that the Land Acquisition Officer refused or omitted to make a reference under Section 18 of the Land Acquisition Act is substantiated it cannot be denied that a suit like the one in question is maintainable. In a case reported in 34 I L R Calcutta, page 470 it is held that in order to give validity to the proceedings and finality to the award in which they terminate, the power of acquisition with all statutory limitations, and directions for its use, must be strictly pursued, every essential prerequisite to the jurisdiction called for by the statute must be strictly complied with, that it is an elementary proposition that statutory provisions in respect of acquisition of lands must be strictly complied with, that the burden of proof of compliance rests upon those, who claim statutory powers or base their title upon the exercise of statutory provisions and that if there are irregularities in such proceedings such as for instance the refusal or the omission to make a reference to Court under Section 18 of the Land Acquisition Act even though a request was made in that respect a suit in the ordinary course is maintainable for claiming damages. In a case reported in XVII Mysore Chief Court Reports, page 101, in which the above case is cited with approval, it is held that where a special remedy is provided by a statute it is necessary, in order to remit the owner to such remedy and exclude his remedy by suit, that the party acquiring the property should have substantially complied with its requirements, and where the proceedings for acquisition are not perfected and completed, they will not debar the remedy by a regular suit. Therefore I hold that the present suit is maintainable and that this Court has got jurisdiction to entertain it.

6 The next point to be decided in this case is, whether the defendant was negligent in not making a proper reference to the Court and whether the plaintiff has sustained any loss or damage in consequence thereof. As already stated it is contended on behalf of the plaintiff that the Land Acquisition Officer refused or omitted to make a reference even though the plaintiff presented an application on 15-9-34 requesting him to make a reference under Section 18 of the Land Acquisition Act to determine the value of the land in question. In paras 9(c) and 9(d) of the written statement of the defendant it is stated that no reference was asked for under Section 18 of the Land Acquisition Act or for any reference under any other section of the same Act and that on 15-9-34 a petition appears to have been filed merely objecting to the acquisition itself. Unfortunately the

said petition is not forthcoming but there is an entry Exhibit L made by D W 1 in the Petition Register maintained by the defendant Municipality. According to the said entry the plaintiff presented a petition on 15—9—34 and a gist thereof is entered in Column 7 of Exhibit L by D W 1 and it is to the following effect —

“States that he is not prepared to give the land S 19, Karethimmanahalli to be acquired at less than Rs 4,000 per acre

10 According to the said entry in the petition presented by the plaintiff on 15—9—34 no request appears to have been made for a reference being made to Court as regards the amount of compensation. Exhibit H purports to be a typed copy of the said petition maintained by the plaintiff and the  
15 last sentence in para (1) of Exhibit H reads as follows —

“x x x If not I request you to kindly send the petition to the Court for disposal

20 It is true that the plaintiff presented the petition referred to above in time as he was served with a notice of the award Exhibit J on 5—9—34. Inasmuch as the original petition is not available it is to be decided whether there was any request made in the said petition asking for a reference being made to a Court. As already  
25 stated the entry Exhibit L relates to the registering of petition immediately after it was presented, and there is nothing therein to show that such a request was made and the plaintiff had not adduced satisfactory  
30 evidence to show that Exhibit H is a true copy of the petition. Exhibit G dated 7—10—1939 is a reply sent to the plaintiff by the Municipal Commissioner as a reply to Exhibit F dated 30—10—1937 which is a notice issued by the plaintiff through his lawyer to the Commissioner and it is  
35 stated in Exhibit G that there was no satisfactory proof of the plaintiff having filed an application to the Land Acquisition Officer to refer the award to the Court and that therefore his contentions could not be accepted. There is no reason to suspect the bonafides of defendant's witness 1 when he made the entry Exhibit L being the gist of the petition presented by him on 15—9—1934, to the effect that he (plaintiff)  
40 was not prepared to give the land to be acquired at less than Rs 4,000 per acre. It is urged that even assuming that no specific prayer was made for a reference being made to the Court, from the spirit of what is alleged to have been mentioned in the petition viz, that the plaintiff was not  
45 prepared to give up the land for less than Rs 4,000 per acre, it must be construed that the petition was one under Section 18 of the Land Acquisition Act. In support of this contention a case reported in A I R (1927) Madras, page 282 is relied  
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on In the above case the party had presented a petition to the Land Acquisition Officer after a notice of award was served on him stating inter alia " I will not receive the amount but will contest the matter in the District Court Can it be said that what is stated in Exhibit L tantamounts to the above statement? The plaintiff is not shown to have mentioned in his petition dated 15—9—1934 that he would contest the matter in Court Therefore the above case has no bearing on the facts of the present case Consequently I must hold that the plaintiff has failed to prove that he asked the Land Acquisition Officer to make a reference to the District Court as regards the amount of compensation as required under Section 18 of the Land Acquisition Act It follows that the plaintiff having failed to apply to the Land Acquisition Officer to make a reference as required under Section 18 of the Land Acquisition Act, cannot be permitted now to agitate the question in this suit which must be held as being not maintainable inasmuch as it is not shown that the Land Acquisition Officer either refused or omitted to make such a reference even though the plaintiff made a request

7 There is another contention urged on behalf of the defendant as regards the non maintainability of the suit against the present defendant In support of that contention the learned Counsel for the defendant relied on a case reported in XVIII Mysore Chief Court Reports, page 92 In that case a suit was brought against "the District Judge, Bangalore , for the recovery of a sum of money on the allegation that a certain sum of money which had been deposited in Court in the name of the plaintiff in that case who was then a minor in a Guardianship Certificate case had been advanced by the District Judge on the security of a Coffee Estate, which security was inadequate and was subsequently completely alienated for another debt, and that therefore the District Judge was liable to make good the amount The District Judge against whom the suit was filed was not the Officer who passed the order granting the loan but he was his successor in office It was held in that case that though an Officer of Government, prima facie, mistakenly or mala fide, committed a breach of the Municipal Law, there can be no question that the suit as brought in that form of a claim for tort or restitution of moneys mis applied would have been maintainable against him in his official capacity as District Judge, but it does not follow that the suit in that form was maintainable against the then District Judge, whose only relation to the former Judge who advanced the loan, is by virtue of his succession and agency in the same office and that a suit against a Government Official for tort or misapplication of funds must be against the Official who committed the act and not against his successor in office, would seem to

be too obvious to admit of argument In this view of the case also the present suit must be held to be not maintainable, because it is admitted that Mr P H Krishna Rao was the Land Acquisition Officer then, and not the present Municipal Commissioner against whom this suit is brought

5           8 The 3rd issue in the case is, whether there is no proper notice given by the plaintiff to the defendant It is  
10           contended that a notice under Section 80 of the Civil Procedure Code ought to have been given and that no valid or proper notice as required by the above section was given to  
15           the defendant as required by law Section 52 of the Land Acquisition Act requires that no suit or other proceeding shall be commenced or prosecuted against any person or  
20           anything done in pursuance of the Act, without giving to such person a month's previous notice in writing of the intended proceeding, and of the cause thereof, nor  
25           after tender of sufficient amends Therefore the notice which was required to be issued was under Section 52 of the Land Acquisition Act and not under Section 80 of the Code of Civil Procedure Inasmuch as the Land Acquisition Act which is  
30           a special enactment provides for such a notice being issued, it is rather doubtful whether the plaintiff was required to issue a notice under Section 80 of the Civil Procedure Code also in addition to a notice which is required to be issued under Section 52 of the Land Acquisition Act However, the  
35           notice Exhibit F dated 30-10-37 was admittedly served on the defendant and it satisfied all the requisites of both Section 52 of the Land Acquisition Act and Section 80 of the Civil Procedure Code The suit in question was filed on 16-5-40 i e, nearly two and half years after the issue of the notice  
40           Exhibit F Therefore the contention that there was no proper notice is not tenable

9 The 4th issue in the case is, whether the decision in Mis Case No 88 of 36-37 on the file of the Principal Subordinate Judge, Bangalore, operates as res judicata or estoppel to the present suit In the light of the findings that I have given on issues 1 and 2 in the case I must hold that the above decision does not operate as res judicata or estoppel to the present suit

10 The 5th issue is, whether the defendant was negligent in not making a proper reference to the Court and whether the plaintiff sustained any loss or damage in consequence thereof, and I have already held that there was no such negligence or omission on the part of the Land Acquisition Officer, therefore it follows that the plaintiff cannot be said to have sustained loss or damage, if any, in consequence of the negligence or omission on behalf of the Land Acquisition Officer, and this is my finding on the 5th issue in the case

11 The 6th issue is whether the award passed by the defendant just, reasonable and equitable The plaintiff claimed at first Rs 4,000 per acre as compensation but in this suit he has reduced it to Rs 2,000 per acre It cannot be denied that the compensation awarded at Rs 125 per acre is too inadequate Because the land in question was adjacent to Chamarajapet Extension in Bangalore City and as such its value must have been much more than what was assessed by the Land Acquisition Officer The plaintiff has produced the sale deed Exhibit B in which it is mentioned that plaintiff's witness 3 Abdul Hukh sold the land in question to the plaintiff for Rs 3,000 He swears that he has spent about Rs 3,000 to get the land levelled up and that the price of land at the time of acquisition in the locality was at Rs 2,000 to Rs 2,500 per acre as there were dwelling houses in that locality and that sites measuring 40 x 80 and 40 x 100 were sold at Rs 500 to Rs 600 in the locality As already stated the sale deed Exhibit B came into existence long after the land was notified for acquisition and as a matter of fact subsequent to the land was taken possession of by the defendant Municipality On this account it is contended on behalf of the defendant that the amount mentioned in Exhibit B, the sale deed must have been exaggerated with a view to get higher compensation Plaintiff's witness 1 Lakkappa who is the Patel of Karethim manahalli, to which the land belonged, says that the value of dry land is Rs 1,500 per acre in that locality Plaintiff's witness 2 K N Ayyanna Setty deposes that he purchased a land measuring 7 guntas for Rs 1,200, which was adjacent to the land in question and that the land in that locality was worth Rs 2,000 Plaintiff's witness 3 Abdul Hukh also says that the price of land went up recently in that locality to Rs 2,000 per acre Even though the plaintiff has not adduced satisfactory evidence as regards the exact value of the land in the vicinity it may be taken considering the importance of the locality and the fact of the land having been utilised for house sites that it was worth Rs 1,000 (one thousand) an acre In these circumstances I have no hesitation to hold that the compensation awarded at Rs 125 per acre is too inadequate The plaintiff himself is to be blamed for not having applied to the Land Acquisition Officer for a reference being made under Section 18 of the Land Acquisition Act in order to get a judicial valuation of the land, which would certainly have been much more than what the Land Acquisition Officer has awarded

12 In the result this suit fails and the same is dismissed As the plaintiff has failed on the technical objections urged on behalf of the defendant, and as he would have succeeded substantially had it not been for the said objections, I direct the parties to bear their own costs of this suit

Dictated to the Stenographer and pronounced in open  
Court

(Sd) G Paramasiviah,  
District Judge  
8—11—1940

**DFCREF**

Section 34 of Civil Procedure Code From No 15 (Civil)

10 IN THE COURT OF THE DISTRICT JUDGE,  
BANGALORE

Original Suit No 34 of 1939—40

15 Plaintiff —V Sampangi Ramiah, son of Gurappa,  
aged about 40 years, Oil Merchant,  
New Tharagupet, Bangalore City

Vs

20 Defendant —The Land Acquisition Officer, Bangalore  
City Municipality, City Municipal  
Offices, Bangalore City

2, Suit for the recovery of Rs 10,500—Rs 9,740—8—0 being  
the value of 4 acres and odd of land at the rate of Rs 2,000  
per acre and Rs 1,462—8—0 being statutory allowance in all  
Rs 11,203 minus Rs 703 amount already given as compen  
sation—as damages incurred by the plaintiff as the defendant  
30 having neglected and refused to make a proper reference to  
the District Court, Bangalore, with regard to the inadequacy  
of compensation etc

Suit was filed on 16—5—1940

3 This suit coming on for final disposal before G Para  
masiviah Esq, B A, LL B, District Judge, Bangalore, in the  
presence of Mr G Sreenivasa Rao, Advocate for the plaintiff,  
and of Mr G S Doraswami Iyer, Government Pleader for  
the defendant

40 It is ordered and decreed that the suit be and is  
hereby dismissed

And it is further ordered and decreed that the parties  
do bear their own costs

45 Given under my hand and the seal of the Court, this  
8th day of November 1940

(Sd) G Paramasiviah,  
District Judge,  
Bangalore

# MEMO OF COSTS

|                           | By<br>plaintiff |      | By<br>defendant |      |
|---------------------------|-----------------|------|-----------------|------|
|                           | Rs              | a p  | Rs              | a p  |
| Court fee on plaint       | 618             | 12 0 | 0               | 0 0  |
| ” Power of attorney       | 0               | 8 0  | 0               | 8 0  |
| ” Exhibits                | 1               | 0 0  | 1               | 0 0  |
| Service of processes      | 4               | 1 0  | 0               | 0 0  |
| Subsistence for witnesses | 7               | 8 0  | 0               | 0 0  |
| Commissioner s fee        | 0               | 0 0  | 0               | 0 0  |
| Costs of adjournment      | 0               | 0 0  | 0               | 0 0  |
| Fees for copying etc      | 0               | 9 0  | 0               | 12 0 |
| Advocate s fee            | 360             | 0 0  | 360             | 0 0  |
| Stamp on application      | 0               | 0 0  | 0               | 12 0 |
| Total                     | 992             | 6 0  | 363             | 0 0  |

## Schedule

Five acres of land acquired by the defendant in Survey No 19 of Karethimmanahalli, Kasaba Hobli, Bangalore Taluk, acquired as per Government Order No L 204/M L — 33—32—114 dated 10—7—33 and bounded as follows —

east—Ramachandra Rao's dry land, west—Government drain, north Government land, and south Government land

(Sd ) G Paramasiviah,

District Judge

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**APPEAL MEMO**

IN THE HIGH COURT OF MYSORE, BANGALORE

Regular Appeal No 114 of 40—41

Appellant-(Plaintiff) —V Sampangiramaiah, son of Gurappa, aged about 41 years, Jyothinagarada Vysya, Shop No 120—21, New Tharagupet, Bangalore City, (Mysore Road), Oil Merchant

Vs

Respondent-(Defendant) —Land Acquisition Officer, Bangalore City Municipality, City Municipal Offices, Bangalore City

Under Section 96, C P C , the appellant abovenamed begs to prefer the following appeal against the judgment and decree dated 8—11—40 passed by the learned District Judge, Bangalore Division in O S No 34 of 39—40 (dismissing the plaintiff's suit) for the following among other grounds —

1 The learned District Judge erred in holding that the appellant-(plaintiff) had failed to prove that he had asked the Land Acquisition Officer to make a reference to the District Court as regards the amount of compensation payable to him as required under Section 18 of the Mysore Land Acquisition Act

2 The learned District Judge erred in holding that the plaintiff having failed to apply to the Land Acquisition Officer to make a reference as required under Section 18 of the Mysore Land Acquisition Act could not agitate or be permitted to agitate the question in this suit

3 The learned District Judge erred in law in holding that the suit was not maintainable inasmuch as it was not shown that the Land Acquisition Officer either refused or omitted to make a reference even though the appellant (plaintiff) made a request

4 The learned District Judge has erred in failing to consider that Exhibit L and the other documentary evidence clearly pointed out that the appellant (plaintiff) had moved the Land Acquisition Officer to make a reference to the District Court regarding the question of compensation and that he would not accept the award passed by him

5 The learned District Judge has erred in not drawing an adverse inference against the respondent (defendant), inasmuch as he has not produced the original petition filed by the appellant-(plaintiff), moving the respondent to make a proper reference to the Court of competent jurisdiction

6 The learned District Judge has erred in failing to attach the proper value to Exhibit H which purported to be a typed copy of the petition presented to the respondent (defendant), regarding the reference to the Court of competent jurisdiction

7 The learned District Judge has clearly erred in failing to consider that at best Exhibit L was only a summary or gist of the petition filed by the appellant (plaintiff) requesting for a reference to a property and that Exhibit L did not purport to be self contained and was admittedly not a copy of the petition

8 The learned District Judge has not properly construed the correspondence between the parties requesting for a reference to a proper Court and in misconstruing some of the exhibits filed in the case and specially Exhibit L

9 The learned District Judge has erred in failing to consider that even according to the respondent-(defendant), the plaintiff did not accept the award passed by the respondent and protested against it and objected to it and it was clear that the spirit and essence of the contentions of the respondent was that the matter should be referred to a Court of competent jurisdiction

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10. The learned District Judge has not properly considered the authorities quoted in support of the appellant s-(plaintiff s), contentions in the matter

5           11 The learned District Judge has erred in failing to consider that the respondent had not examined himself and had not even offered an explanation as to where the original petition filed by the appellant (plaintiff) before his objecting to the adequacy of the award and requesting for a reference to a proper Court had been lost or mislaid and in the absence of any such explanation it was clear that an adverse inference should have been drawn against the respondent (defendant) that it had been kept back as it would be fatal to the case of the respondent (defendant) if it was produced

12 The learned District Judge erred in law (in) holding that the suit as brought against the respondent was not maintainable in his official capacity

20           13 The learned District Judge further erred in law in holding that the appellant-plaintiff had only a personal remedy against the officer in question if at all and that the successor of the office in his official capacity was not liable for the amount

14 The learned District Judge has erred in failing to consider the various legal aspects which arise regarding the above contentions

30           15 The learned District Judge erred in holding that there was no negligence or omission on the part of the Land Acquisition Officer and that it could not be said that the plaintiff had sustained any loss or damage on account of any such negligence or omission of the Officer and that the appellant-plaintiff was not entitled to any damages

16 The learned District Judge while holding that the compensation awarded at Rs 125 is too inadequate, has also erred in holding that the property was worth only about Rs 1,000 per acre In this connection the learned District Judge has erred in the appreciation of evidence both documentary and oral and the value put up on by him is too low and inadequate

45           17 The learned District Judge erred in failing to consider that the appellant-plaintiff had proved his case very satisfactorily and that he would be put to irreparable loss and would be without any legal remedy in the matter if the suit were to fail on a technical ground

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18 The learned District Judge erred in failing to consider that the Land Acquisition Officer who had passed an award and who failed to make a proper reference did so only in his official capacity and was not liable personally to answer any claim for damages for any breach of his duties

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19 The reasons given by the learned District Judge for holding that the suit as brought against the respondent-defendant is not maintainable and for holding that the plaintiff had not satisfactorily proved his moving the respondent for making a proper reference to the Court are quite insufficient, untenable and unconvincing

10

20 The learned District Judge has erred in the appreciation of evidence adduced in the case, both documentary and oral and his findings against the appellant-plaintiff are incorrect and untenable

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21 The learned District Judge has erred in drawing unwarranted presumptions and inferences not supported by law or facts in the case and in mainly basing his findings and judgment on such presumptions and inferences

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22 The judgment and decree passed by the learned District Judge are otherwise against law, facts, weight of evidence and probabilities in the case and are liable to be set aside

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23 The value of the subject matter of this appeal for purposes of Court fee is Rs 10,500 as before the lower Court and Court fee stamps to the value of Rs 618-12-0 are here with submitted

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24 Wherefore, the appellant prays that this Honourable Court may be pleased to allow this appeal with costs throughout, to reverse the judgment and decree passed by the learned District Judge and to grant a decree in favour of the appellant as prayed for in the plaint and for any other reliefs that this Honourable Court may deem fit to grant

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(Sd ) G Srinivasa Rao,

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Advocate for appellant

27-2-41

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Bangalore City,

27-2-41

Deposition of Lakkappa, 1st witness for plaintiff,  
taken on 5—11—40

5 Father s name—Mariyappa Aged-60 years Caste-  
Vokkaligar, Occupation—Agriculture Residence - Karithim  
manahalli, Bangalore Taluk

10 Examination in chief—I am the Patel of Karethim  
manahalli, which is about 2 furlongs from Chamarajapet,  
Bangalore City I have seen the lands S No 19 of Karethim  
manahalli It is along the Bangalore-Mysore Road and is  
adjacent to Chamarajapet The value of dry land is Rs 1,500  
per acre in that locality, as it is fit for building purposes  
15 Many have converted land in that locality, into building sites  
and have sold them at exorbitant prices Nanjappa has done  
so The Municipality of Bangalore City have acquired the  
survey number in question They converted it into building  
sites and sold them away for constructing residential houses

20 Cross examination This number was agricultural land  
before it was acquired No mahazar was prepared in connec-  
tion with the acquisition of the land The Municipality took  
possession of the land without the knowledge and consent of  
the plaintiff At the time of acquisition the khate of the land  
25 was in the name of the plaintiff Before that the khate was  
in the name of a Mussalman, from whom the plaintiff pur-  
chased the land about two years ago The plaintiff did not  
know of the proceedings relating to the acquisition of the  
land The plaintiff was not coming to the land, as he is a  
30 merchant He never came near the land when it was made  
out into sites I do not know to whom money was paid and  
from whom they took possession of the land I do not know  
whether the plaintiff was paid any money in that connection

35 Re examination—Nil

Taken down by me, interpreted to the witness and  
admitted by him to be correct

40 (Sd ) G Paramasiviah,  
District Judge,  
5—11—40

45 Deposition of K N Ayyanna Setty, 2nd witness for  
plaintiff, taken on 5—11—40

50 Father s name—Nanjappa Aged—42 years Caste—  
Veerasaiva Occupation—Trade Residence—Chamarajapet,  
Bangalore City

Examination in chief —I had seen S No 19 of Karithimmanahalli, which was behind my land, belonging to Bhagenahalli. The distance between the two was about one furlong. I purchased my land which measures about seven guntas for Rs 1,200. It was a dry land then. I have built a house now in that land. S N 19 was also a dry land. It was worth about Rs 2,000 per acre. It is now converted into building sites. 5

Cross examination —I have not brought the sale deed under which I purchased the land. I am not summoned to produce it. My land was also agricultural land. I paid a special fine of Rs 500 or Rs 600 per acre for converting the land. 10

Re examination —I have deposited the sale deed in the Bank of Mysore, Ltd. 15

Takendown by me, interpreted to the witness and admitted by him to be correct.

(Sd ) G Paramasivaiah, 20

District Judge,

5—11—40

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Deposition of Abdul Hukh, 3rd witness for plaintiff, taken on 5—11—40.

Father's name—Abdul Sattar. Age—40 years. Caste—Mussalman. Occupation—Grass Contractor. Residence—Ranasingapet, Bangalore City. 30

Examination in chief —I have seen S No 19 of Karithimmanahalli. It belonged to me. I had hypothecated it to the plaintiff under Exhibit A dated 25—2—32, for Rs 4,500 along with other properties. Subsequently I sold S No 19 to the plaintiff for Rs 3,000 under the sale deed Exhibit B, dated 9—11—33. I was a party in the Land Acquisition case, and I stated in that case that the compensation amount might be paid to the plaintiff. The price of land went up recently to the extent of Rs 2,000 per acre. 35 40 45

Cross examination —Exhibit I is the notice served on me in the Land Acquisition case. The plaintiff was also a party in the Land Acquisition case. Exhibit II is the copy of the order passed in that case. I do not know whether the 50

plaintiff received the compensation amount I have signed  
Exhibit IV dated 15-9-33

Re examination —Exhibit IV was not read out to me  
before I signed it Some one asked me to sign it saying that  
something had come from the Municipality They did not  
show me any sketch of the land, neither did they inform me  
that they were going to take possession of the land I was  
not informed that it referred to the acquisition of the land  
in question

Taken down by me, interpreted to the witness and  
admitted by him to be correct

(Sd ) G Paramasiviah,

District Judge

5-11-40

Deposition of B P Nanjappa, 4th witness for plain  
tiff, taken on 5-11-40

Father s name—Papanna Aged—34 years Caste—  
Telugu Banajigar Occupation—Merchant Residence—Cha-  
marajapet, Bangalore City

On solemn affirmation Examination in chief —I  
purchased a portion of S No 19 of Karethimmanahalli in  
Bangalore Taluk from the plaintiff under the sale deed Exhi-  
bit C dated 25-1-34 for Rs 500 I purchased 40x120 feet for  
putting up a building The price of land was then Rs 2,000  
to Rs 2,500 per acre then I have not yet put up a building

Cross examination —The plaintiff informed me that  
about 3 years after the date of Exhibit C that the whole  
survey number had been acquired by Municipality I did not  
enquire how much compensation was paid and how my rights  
would be affected The plaintiff did not give me the title  
deed relating to survey number neither did I ask for it

Re examination -Nil

Taken down by me, interpreted to the witness  
and admitted by him to be correct

(Sd ) G Paramasiviah,

District Judge,

5-11-40

Deposition of V Sampangiramiiah (Plaintiff), 5th witness for plaintiff, taken on 5—11—40

On solemn affirmation—Examination in chief —Survey Number 19 of Karethimmanahalli was purchased by me under Exhibit B for Rs 3,000 I sold a portion of it to P W 4 Nanjappa for Rs, 500 under Exhibit C I wanted to locate my Soap Factory in that land I spent about Rs 3,000 to get the land levelled up In the meanwhile, the Bangalore City Municipality acquired the land I had effected improvements before the land was acquired The price of the land at the time of acquisition was Rs 2,000 to Rs 2,500 per acre, as it is in the vicinity of Bangalore City There are dwelling houses in that locality Sites measuring 40 x 80 feet, 40 x 100 feet, etc, have been sold for Rs 500 to Rs 600 in that locality I claimed compensation at Rs 4 000 per acre as per statement filed before the Land Acquisition Officer I did not consent for the award being given at Rs 125 per acre by the Land Acquisition Officer I presented an application to the Land Acquisition Officer on 15—9—34 protesting as against the award and requesting that the matter might be referred to the District Court Exhibit D is the acknowledgment receipt relating to the same I got a notice issued by my lawyer to the Land Acquisition Officer, i.e., the Municipal Commissioner and it is Exhibit E dated 24—6—37 I got another notice issued to the Commissioner, Bangalore City Municipal Council and it is Exhibit F dated 30—10—37 (Both Exhibits E and F are produced by Mr G S D, Government Pleader at the request of the plaintiff's counsel G S) Exhibit G dated 7—10—39 is the reply which I got for Exhibit E It is stated in Exhibit G that there was no satisfactory proof of my having filed an application to the Land Acquisition Officer requesting the award to be referred to the Court (In the circumstances I permit a copy of the alleged application to be filed) Exhibit H is a copy of the application which I presented to the Municipal Commissioner on 15—9—34 Exhibit J dated 5—9—34 is the notice which I received as regards the award There is a reference in the register maintained in the Bangalore City Municipal Council to show that I presented an application on 15—9—34 and I have obtained a certified extract from that register (Mr G S D objects it for the certified copy being received as the original register itself is not summoned I uphold the objection) I have claimed Rs 10,500 as compensation for the whole of the survey number Exhibit K is the copy of the award passed in regard to the survey number in question I had produced before the Land Acquisition Officer my sale deed The price of land in the locality was Rs 2,000 to Rs 2,500 per acre at the time of acquisition Survey No 19 was a dry land in which ragi crop etc was being raised

Cross examination —Exhibit B does not bear any mark showing that I had produced it before the land Acquisition Officer. I have signed Exhibit III dated 9—11—33. I saw that petition. I did not know that the land had been notified for acquisition in June 1933 alone as per Gazette Notification Exhibit V. I was put in possession of the land on the date of sale. As a matter of fact I was in possession of the land for about 10 years previous as a mortgagee with possession. I have not got that mortgage bond with me now, as I have given it to Audagudi Chinnappa for reference. It is not true that the Municipality took possession of the land from P W 3 Abdul Hukh on 15—9—33. The mortgage with possession in my favour was in 1933 or 1934. It was for about Rs 5,000, but I do not exactly remember. Three more properties had been mortgaged to me in addition to the land in question. I do not remember whether I paid anything in cash on the date of sale of the land in my favour. I have not maintained accounts regarding this transaction. Exhibit VI dated 29—11—33 is the acknowledgment receipt relating to Exhibit III (Exhibit VI is produced by the witness now at the request of Mr. G S D). The body of Exhibit VI was written by my clerk. He is not in my service now. He was working under me in 1934—35. I made enquiries even after I presented the petition Exhibit III, and I learnt that the land had been acquired by the Municipality, I learnt about immediately after I saw the demarcation etc., in the land in question. The entry Exhibit L dated 19—9—34 in the Register of Petitions maintained by the Bangalore City Municipality refers to the petition which I presented on 15—9—34. I obtained a copy of the said entry on 20—2—37. I received the amount awarded from this a few days after the order in Mys Case No, 88 or 36—37 on the file of the Second Additional Subordinate Judge, Bangalore was passed on 29—6—37, on an application filed by me before the Municipal Commissioner. I was impleaded as one of the claimants in the reference itself. I do not remember who was the Municipal Commissioner at the time the land was taken possession of. Neither do I remember who the Municipal Commissioner was when I filed an application for being impleaded as a claimant. It may be Mr P H Krishna Rao who did not make the proper references to Court. I got the statement Exhibit VII dated 23—12—35 filed in Court on 4—6—36 by my lawyer claiming Rs 4,750 as compensation. Eight others put in their claim also. I did not prefer an appeal on the order passed on 17—5—37 of which Exhibit II is a copy. I do not remember whether I requested the Court to get another reference from the Land Acquisition Officer. I examined two witnesses in that case. It is not true that the land in question and other properties were hypothecated to me for Rs 700 at first. All the title deeds were

with me till the time of sale, when I returned them to Abdul Hukh who sold away his other properties to some others I was paying the assessment after the date of sale and Abdul Hukh paid it before It is not true that I claimed only Rs 4,000 in my petition dated 15-9-34 as mentioned in Exhibit L I also requested in that petition that the matter should be referred to Court That petition was written by my clerk I had not engaged a lawyer then I was examined in Mis Case No 88 of 36-37 on 11-5-37 I do not remember whether I obtained receipts from Abdul Hukh for the amount I paid to him I received Rs 703 as per receipt Exhibit VIII dated 31-5-37

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Re examination —It was by mistake that I claimed Rs 4,750 at Rs 1,000 per acre in Exhibit VII I had instructed my Lawyer to claim at Rs 4,000 per acre I requested him to file an application for the amendment of my statement The land in question and other three properties had been mortgaged to me for Rs 7,000 I was not at all aware of the acquisition proceedings At the time of sale Abdul Hukh did not inform that the land had been notified for acquisition I presented another application on 29-7-35 as per acknowledgment receipt Exhibit M Exhibit N is a copy of that application I did not get any reply

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20

Taken down by me, interpreted to the witness and admitted by him to be correct

25

(Sd ) G Paramasivaiah,

District Judge,

5-11-40

30

Deposition of M V Nagaraja Rao, 1st witness for defendant, taken on 6-11-40

35

Father's name—M Venkataramaiah Aged - 33 years  
Caste—Brahmin Occupation—Clerk, Municipal Office,  
Bangalore City

40

On solemn affirmation—Examination in chief —I have been a clerk in Bangalore City Municipality for the last thirteen years Mr S Narayana Rao, the present Commissioner of the Municipality has been holding that office since October 1937 Mr M Seshadri, who is now the Deputy Commissioner of Shimoga, was the Municipal Commissioner from July, 1934 till October 1937 Mr P H Krishna Rao was holding that

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50

office from 1931 till 1934 I can identify the handwriting and signature of the above gentlemen Exhibit IX dated 28-7-35 is a petition purporting to have been presented to the Municipal Commissioner and the portion Exhibit IX(a) is in the handwriting of Mr M Seshadri who was then the Municipal Commissioner Exhibit X dated 25-8-34 is another petition of the plaintiff presented to the Municipal Commissioner As far as I am aware of there is no petition presented by the plaintiff requesting for a reference being made to Court in this Land Acquisition case Exhibits XI and XI(a) are the valuation statements prepared in this Land Acquisition Case Exhibits XII, XII(a), XII(b) and XII(c) are the papers relating to the land having been taken possession of from the party Exhibit XIII is the reference made to Court by Mr M Seshadri, the then Municipal Commissioner

Cross examination —I was working in the correspondence branch from 1934 till 1935 It was I who registered the petitions Exhibits IX and X Except to that extent I am not personally aware of any of the transactions referred to above by me As there is no such petition is available in the files relating to the Land Acquisition case in question, I say that no petition was presented by the plaintiff requesting a reference to be made to Court I looked at the file just now There is a current petition register maintained at the Municipal Office I made the entry Exhibit L I referred the petition referred to in Exhibit L to the concerned clerk i.e. the Land Acquisition Clerk A gist of what was mentioned in this petition is stated in Exhibit L The correction of the figures 19 and 4,000 are made by me and I have initialled them All the petitions are generally filed in the respective records by the concerned clerks

Re examination —Nil

Taken down by me, interpreted to the witness and admitted by him to be correct

(Sd ) G Paramasivaiah,

District Judge

6-11-40

#### EXHIBIT A

Mortgage deed dated 25-2-1922 executed in favour of V Sampangiramaiah, Oil Mandi, Mysore Road, Chamarajpet, Bangalore City, by Abdul Huq, son of M G Sathar, Kadugodu Muniappa's lane, Gollarpet, Bangalore City, is as follows

I am due a sum of Rs 3,500 to Mandi Mullur Guru murthappa, Chamarajpet, Bangalore City, as detailed below  
 Rs 2,800 due to him on a mortgage of immovables under registered mortgage bonds dated 1—7—27, 25—10—30 and 8—8—31 respectively Rs 200 due under a promissory note Rs 175 being the balance of interest upto date, excluding payments, Rs 325 being the amount paid by him towards Municipal landyam, light charges, repairs, etc, in respect of the mortgage properties, according to his accounts In all I am due to him a sum of Rs 3,500

For the purpose of discharging this debt and for my family necessity, I have this day borrowed from you Rs 4,500, by mortgaging the aforesaid mortgage properties and I have executed this registered bond Details for the receipt of consideration—Rs 3,500 are paid to the aforesaid Guru murthappa, under Grain Merchant Bank Cheques bearing Nos A17016 and 17017 and the partition deed, Court records, On demand promissory note, the gift deed executed in my favour by my father, the other original deeds and the aforesaid three registered mortgage deeds are delivered to you for your reference after obtaining his endorsement of discharge I have received the remaining Rs 1,000 under the Grain Merchant Co operative Bank Cheque No A17019 In this way I have received the sum of Rs 4,500 in full I agree to pay interest at 1 per cent a month I will pay the interest regularly every month I will discharge the principal within 10 years from this date The sum of Rs 30 being the monthly rent in respect of the house (out of) the mortgage properties) which I have rented to you this day under a registered rental deed, shall be adjusted towards the interest I will regularly pay the remaining Rs 15 and receive receipts for the payment of Rs 45 interest No other evidence of payment need be recognised If I fail to pay the interest regularly, I will be bound to pay interest at Rs 18 0/ a month from the date of default The properties are not in any way alienated in favour of any one There no heirs, Subject to the aforesaid conditions, I and my other properties and the mortgage properties shall be liable to discharge the principal and interest I will discharge the amount on the due date, and take back the said documents and this bond with your endorsement of discharge If I fail to pay the interest regularly, I will be liable to pay the interest at the enhanced rate and to discharge the principal and the balance of interest on demand without having regard to the period stipulated

#### Details of the properties

Mandi situate in Mysore Road, Chamarajpet, Bangalore City, bearing Nos 107, 117/7, is bounded on the —

east by—Public Road, west by Shop No 1179,  
north by—Road, and south by—Mysore Road

5 The terraced Mandi within the above limits, with the front verandah and the vacant site The Mangalore tiled house behind the mandi, with a room and vacant site, well and the eastern vacant site with a foundation This entire property measuring east to west 26<sup>1</sup> feet north to south about 122 feet

10 2 Land near Karethimmanahalli village, Bangalore Taluk, Kasaba hobli, and situate by the side of the Mysore Road is bounded on the—

51 east by—Ramachandra Rao's dry land, west by—Government drain, north by—Government land and south by Government land

20 The dry land within the above limits, measuring 5 acres assessed at Rs 6

25 3 House situate in Rajapatalam Nizamuddin Street, Bangalore City, bearing Municipal No 66, is bounded on the—

east by—Abbas Sahib's house, west by—Ghouse Khan Sahib's house, south by—public lane and north by—Mysore Road

30 The house within these limits, with 2 shops attached to it

35 4 House situate in the said Nizamuddin Street, bearing No 88, is bounded on the—

east by—Wrestling Institute, west by—lane, north by—x x x Sahib's house and south by—Garadimane lane

40 5 House situate in Cottonpet Cross Road, bearing No 107, is bounded on the—

45 east by—house of P Nanjappa, west by Ibrahim Sahib's house, north by—Fakruddin Sahib's house and south by—Government Road

These 5 properties are mortgaged in your favour

To this effect is this mortgage deed executed with my free will and consent

(Sd ) M G Abdul Huq  
(In Urdu)

5

Witnesses —

(Sd ) B P Nanjappa, Mandi Merchant,  
New Tharagpet, Bangalore City

10

„ K Ramanna

Writer —

(Sd ) Narappa, son of Ramiah,

15

Kengeri

I will pay the kadayam in respect of the land No 9 in Karethimmanahalli, regularly every year. If I fail to do so and you pay the amount, I shall be liable to pay the amount so paid in accordance with your accounts, with interest at 1 per cent a month. I will pay the sum along with the principal or whenever you desire

20

(Sd ) M G Abdul Huq,  
(In Urdu )

25

[Registered ]

#### EXHIBIT B

Sale deed dated 9—11—1933 executed in favour of V Sampangi Ramaiah, Oil Mandi, Mysore Road, Chamrajpet, Bangalore City, by M G Abdul Hukh, son of M G Abdul Sattai, Kadugodu Muniappa s lane, Gollarpet, Bangalore City is as follows —

30

35

I have this day sold to you the schedule property which is in my possession and enjoyment being my ancestral property and which is one of the items in the Registered mortgage deed executed by me in your favour on 20—3—33 registered in the City Sub Registrar's Office as No 2148 for a sum of Rs 3,000, for the purpose of carrying on business, maintenance of my family and for discharging other debts. Details for the receipt of consideration—Rs 500 received from you under a sale agreement in respect of this property dated 24—5—33, Rs 2 000 received under a consideration receipt dated 15—6—33. In this way I have received Rs 2,500. I have received the remaining Rs 500 in presence of the Sub Registrar. As aforesaid I have received Rs 3,000 in full and delivered the property to your possession

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45

I have already delivered the original title deeds of the property, when I executed the said mortgage deed. There are no claimants regarding the property which is not in any way alienated.

5 If any disputes arise I will get them settled at my expense and make good any loss you sustain in this behalf.

I have paid the kandyam due on the land. Hence you have to pay the kandyam. You can get the patta transferred to your name. Henceforth you and your posterity are entitled to enjoy all the rights in and appertaining to the property.

#### Details of the property

15 Dry land situate near Karethimmanahalli, by the side of Mysore Road, Bangalore Taluk, Kasaba Hobli, standing in the katha of my father M G Abdul Sattar Sab, bearing Re survey No 19, measuring 5 acres, assessed at Rs 6, is bounded on the—

2 east by—Ramachandra Rao's dry land, west by—Government drain, north by—Government Road, and south by—Government Road.

25 The land within the above limits has been sold.

To this effect is this sale deed executed with my free-will and consent.

(Sd) M G Abdul Hukh

(In Urdu)

Witnesses —

35 (Sd) T M G A Puttappa

„

(In Urdu)

40 „ Siddappa

Writer —(Sd) Narappa, son of x x Kengeri

[Registered]

15

#### EXHIBIT C

50 Sale deed dated 25--1--34 executed in favour of B P Nanjappa, son of B Papanna, resident of Appabhatta

Agrahara, Chamarajapet, Bangalore City, by V Sampangiramaiah, Oil Merchant, Mysore Road, Chamarajapet, Bangalore City, is as follows —

I have this day sold to you for a sum of Rs 500, the schedule property which is my self acquisition and which is in my possession and enjoyment, having been purchased from M Abdul Hukh Sab, Kadugodu Muniappa Lane, Gollarpet, Bangalore City, under a sale deed registered in the Sub Registrar's Office, Bangalore, on 9--11--33 as No 1276, at pages 234--241, Vol 271, Book I I have received Rs 500 in full in presence of the Sub Registrars and have this day delivered the property to your possession Henceforth you and your posterity are entitled to enjoy all the rights in and appertaining to the property, by paying the kandayam As I have sold a portion of the entire property, reserving the remaining to myself, I have retained with me the original title deeds and other documents relating to it

#### Details of the property

Out of dry land Re survey No 19, situate near Karethimmanahalli, Bangalore Taluk, Kasaba Hobli, by the side of Mysore Road--80 feet of the western portion on the northern side, is to be excluded

The remaining land measuring east to west 40 feet, north to south 120 feet bounded on the--

east, west and south by--our portion of land,  
north by--Government land

The land of the above description has been sold this day

To this effect is this sale deed executed with my free-will and consent

(Sd ) V Sampangiramaiah

Witnesses --

(Sd ) M Putta Rao

,, T M A. Puttappa

Writer --(Sd ) Narappa, son of x x Kengeri

[Registered ]

EXHIBIT D  
(Acknowledgment)

From,

V Sampangiramaiah,  
Oil Mandy, Chamarajapet,  
Bangalore City

One addressed letter

To,

The Municipal Commissioner,  
City Municipality  
Bangalore City

EXHIBIT E

D Krishnaiengar, B A , LL B ,      Balepet, Bangalore City,  
Advocate      Dated, 24th June 1937

To,

The Land Acquisition Officer,  
(Municipal Commissioner),  
City Municipality Buildings,  
Bangalore City

Dear Sir,

The land specified hereunder had been mortgaged to my client Mr V Sampangiramaiah, Oil Merchant, New Tharagupet, Bangalore City for a sum of Rs. 4,500 (Rupees Four thousand five hundred)

It was subsequently acquired by Government and an award was made for Rs 718-12-0

My client was not satisfied with the amount of compensation awarded and in consequence he applied to the Land Acquisition Officer on 15-9-1934 for a reference to the Civil Court in the matter of the inadequacy of the compensation. This application was duly notified to the Land Acquisition Officer. My client has obtained the necessary voucher dated 15-9-1934 acknowledging receipt of the application.

In spite of this no reference to Court was made about the inadequacy of compensation but the reference confined itself only to the question of the apportionment of compensation between my client and others.

The 2nd Additional Sub Judge of Bangalore before whom these proceedings were pending for enquiry in Miscellaneous Case No 88 of 1936-37 refused to consider the question of the inadequacy of compensation on account of the absence of a reference on this matter.

My client claimed enhanced compensation at Rs 4,000 (Rupees four thousand) an acre and by reason of the

omission of the Land Acquisition Officer to make a reference on this subject my client has suffered considerable loss The Land Acquisition Officer has therefore to make good this loss to my client

I am instructed to ask that he may be compensated and in the event of non compliance to file a suit therefor 5

I remain,

Yours faithfully,

(Sd ) D Krishnaiengar, 10

Advocate

Description of the land referred to above —

Survey No 19 in Karithimmanahalli Village, Kasaba Hobli, Bangalore Taluk, acquired in accordance with Government Order No L 204-7/MI 33-32-114 dated 10th July 1933 15

(Sd ) D Krishnaiengar,

Advocate 20

#### EXHIBIT F

Girmaji Sreenivasa Rao, B A , LL B , Bangalore City, 25

High Court Advocate Dated 30th Oct 1937

No 116

To

The Commissioner,

Bangalore City Municipality,

City Municipal Office, Bangalore City

Re The acquisition of Survey No 19 of Karithimmanahalli, Kasaba Hobli, Bangalore Taluk 35

Sir,

Under instructions from my client Mr V Sampangiamiah, Oil Merchant, New Tharagupet, Bangalore City, I am requested to inform you as follows — 40

1 You are quite aware of the fact that the City Municipality acquired the above said land and granted a compensation of only Rs 718-12-0 as compensation in respect of the acquisition and that you referred the matter only under Section 31 of the Land Acquisition Regulation for apportionment and that the Court granted the abovesaid amount to my client Mr Sampangiamiah in Mis Case No 88 of 36--37 on the file of the 2nd Additional Subordinate Judge, Bangalore 45 50

2 At the time of the acquisition of the land in  
question my client had filed an objection before the Municipality stating that the amount of compensation granted at  
the rate of Rs 125 per acre for the 5 acres acquired was too  
low and inadequate, that he was not prepared to accept  
the same and that he claimed compensation at the rate of  
Rs 4,000 per acre together with statutory allowance and that  
the matter of the adequacy of compensation may be referred  
to the District Judge's Court for adjudication under Section  
10 19 of the Mysore Land Acquisition Regulation

3 In spite of my client's not accepting the quantum  
of compensation granted by the City Municipality and in spite  
of his filing an objection statement claiming from the Municipality at the rate of Rs 4,000 per acre and in spite of his urging that the matter may be referred to the District Judge's Court for adjudication in respect of the compensation, the City Municipality referred the matter only under Section 31  
15 for apportionment and not under Section 19 of the said Regulation for the purpose of enhancement of the amount of  
2 compensation

4 The action of the City Municipality in referring  
the matter only under Section 31 and not under Section 19  
20 of the Mysore Land Acquisition Regulation in spite of my client not accepting the quantum of compensation as granted and objecting thereto was clearly ultra vires and has resulted in substantial loss and damage to my client. When  
my client urged the question of adequacy of compensation  
in Mys No 88 of 36—37 on the file of the Second Additional Subordinate Judge, Bangalore and for enhancement as  
claimed by him before the Municipality and before the Court, the Court however was pleased to pass an order that as the  
reference was only under Section 31 of the Land Acquisition Regulation the question of the adequacy of compensation  
3 could not be gone into by the Court and it adjudicated only upon the reference under Section 31

5 In spite of my client repeatedly requesting the Municipality to make a reference in the matter under Section  
40 19 touching the question of adequacy of compensation the Municipality has been turning a deaf ear to all his requests and is (it) assigns no reasons whatever for keeping quiet for such a long time and have not made any reference to the District Judge's Court touching the adequacy of compensation and  
45 the abovesaid serious mistake of the City Municipality not having made a proper reference under both the Sections 19 and 31 of the Mysore Land Acquisition Regulation to the District Judge's Court, Bangalore was very improper, negligent and inexcusable  
50

6 On account of the continued silence of the Municipality and their not having taken any steps in moving the District Judge's Court in respect of the adequacy of compensation my client is sustaining substantial loss and damage every day and he has hereby issued a last notice under Section 52 of the Mysore Land Acquisition Regulation

5

7 My client also holds the Municipality responsible for any loss that may be sustained by him on account of the loss or non availability of any material evidence by which the price of the lands or anything relating to the determination of the compensation for acquiring the said land had to be arrived at, as it was entirely due to the mistake, oversight and negligence of the Municipality in not referring the question of adequacy of compensation at the very outset to the District Judge's Court

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15

8 My client calls upon the City Municipality either to make an immediate reference to the District Judge's Court, Bangalore touching the adequacy of compensation granted in respect of the acquisition of the abovesaid land belonging to my client placing all the necessary materials for not referring the matter earlier to the said Court within one month from the date of receipt of this notice and also make proper amends to my client for the delay in the matter or in the alternative to pay my client a compensation at the rate of Rs 4,000 per acre for the 5 acres acquired together with the statutory allowance of 15 per cent thereon and also interest thereon at 12 per cent per annum by way of damages due to my client and also Rs 20 8 0 the costs of this notice to my client or to this office within the said period of one month from the date of receipt of this notice, failing which kindly note that my client will file a suit against the City Municipality for recovery of the balance of compensation as claimed by him at the rate of Rs 4,000 per acre together with the statutory allowance and interest at 12 per cent per annum by way of damages accrued upto date and all other loss and damages sustained by him on account of the Municipality having negligently failed to make the proper reference to the District Judge's Court, Bangalore, in the matter. You may kindly treat this notice as a notice under Section 52 of the Mysore Land Acquisition Regulation

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Yours faithfully,

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(Sd) G Sreenivasa Rao

Advocate

1—11—37

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## EXHIBIT G

Bangalore City Municipality

Municipal Offices,

Bangalore,

7-10-1939

L 1-225/35.

From

10 The Municipal Commissioner,  
Bangalore City

To

15 Girmaji Sreenivasa Rao, Esq , B A , LL B ,  
High Court Advocate,  
Bangalore City

20 Dear Sir,

With reference to your notice dated 30th October 1937, on behalf of your client Mr V Sampangiramiiah, Oil Merchant, New Tharagupet, Bangalore City, regarding the acquisition of S No 19 of Karithimmanahalli, etc , I write to inform that there is no satisfactory proof of the party having filed an application to the Land Acquisition Officer, to refer the award to the Court and that his contentions cannot be accepted

3.

Yours faithfully,

(Sd ) C Ramaswamy,

32 For Municipal Commissioner

## EXHIBIT H

40 To

The Municipal Commissioner,  
Bangalore City Municipality,

45 Bangalore City

Respected Sir,

I am in receipt of your endorsment No 11-68/34-35 dated the 5-9-1934 regarding the Land Acquisition of

Survey No 19 of Karithimmanahalli Village, Kasaba Hobli, Bangalore Taluk And this is the endorsement I received after my 1st petition dated 29—11—33 and the reminder to the same on 25—8—34 I have purchased this land for a huge amount with a view to construct the Soap Factory I have spent nearly 3 to 4 thousands of rupees to level the ground Now when I go through your endorsement it is a heavy loss to me I am prepared to give this land to you if you pay me the compensation at Rs 4,000 per acre If not, I request you to kindly send the petition to the Court for disposal

5

If you do not do so it shall be a heavy loss to me which I request your goodselfes to consider and do the needful early Hope you would grant my numble request

10

I beg to remain,

Respected Sir,

15

Your most obedient servant

Bangalore,

15—9—1934

20

V Sampangiramaiah,

Oil Mandy & M F P Contractor,

Chamarajapet, Bangalore City

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#### EXHIBIT J

City Municipal Office,

30

Bangalore, dated 5—9—1934

#### Endorsement

35

With reference to his petition dated 25--8--1934, Mr V Sampangiramaiah, Oil Merchant, Mysore Road, Chamarajapet, Bangalore City, is hereby informed that a sum of Rs 718-12-0 has been awarded in respect of S No 19 of Karithimmanahalli Village, Bangalore Taluk and the amount will be sent to the District Court, Bangalore for disposal under Section 31 of the Land Acquisition Regulation

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45

(Sd ) M V Seshagiri Rao,

For Municipal Commissioner;

## EXHIBIT K

IN THE COURT OF THE DISTRICT JUDGE,  
BANGALORE

Mis Case No 58 of 1934-35

Claimants —V Sampangiramaiah and others

Vs

19

Opponent —The Land Acquisition Officer, Bangalore  
City Municipality

51

Award under Section 11 of the Land Acquisition Regulation

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Re-The acquisition of Survey No 19 in Karithimmanahalli Village, Kasaba Hobli Division, Bangalore Taluk, declared under Notification No L 204-7/M1 33-32-114 dated 10th July 1933 for being laid out into sites for allotment to the men discharged under the re organisation of Infantry Regiments

25

1 The extent of the land notified for acquisition is as follows —

Vacant land--5 acres

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Preliminary notices under Sections 9 and 10 of the Land Acquisition Regulation were issued to the notified khatedar Abdul Sattar bin Mohammed Ghouse and to Abdul Hukh notified as the first owner Abdul Kareem alias Sabulal, Mohamed Usman alias Bashajan, grand sons of Mohamed Ghouse and Mohamed Yusoof, husband of Khairoonbi, granddaughter of Mohamed Ghouse—all children of Abdul Wahab, the 2nd son of Mohamed Ghouse received the notice One Abdulla Hussain also appeared later and filed a statement along with the others stating that the abovenamed two sons and a daughter of Abdul Wahib and Ameenabi and her minor son Mohamed Ghouse alias Baba, the son of Abdul Khuddus, the 3rd son of the old Mohamed Ghouse were all the claimants for the land Mr Abdul Hukh did not give any written statement though time was granted to him I have inspected the property and pass the following award --

|                                                                                          | Rs  | a    | p  |    |
|------------------------------------------------------------------------------------------|-----|------|----|----|
| Five acres of land at Rs 125 per acre                                                    | 625 | 0    | 0  |    |
| Add statutory allowance 15 per cent                                                      | 93  | 12   | 0  | 5  |
|                                                                                          | --  | ---- | -- |    |
| Total                                                                                    | 718 | 12   | 0  |    |
|                                                                                          | --  | ---- | -- |    |
| (Rupees Seven Hundred and eighteen and annas twelve only )                               |     |      |    | 10 |
| As there are several claimants, the amount will be sent to District Court for disposal   |     |      |    |    |
| Award and surrender notice will issue to the parties                                     |     |      |    | 15 |
| (Sd ) P H Krishna Rao,<br>Municipal Commissioner and<br>Land Acquisition Officer         |     |      |    | 20 |
| -----                                                                                    |     |      |    |    |
| EXHIBIT M                                                                                |     |      |    | 25 |
| (Acknowledgment) \ 29—7—35                                                               |     |      |    |    |
| From                                                                                     |     |      |    |    |
| V Sampangiramaiah,<br>Oil Mandy,<br>Chamarajapet, Bangalore City<br>One Addressed Letter |     |      |    | 0  |
| To                                                                                       |     |      |    | 35 |
| The Municipal Commissioner,<br>City Municipality,<br>Bangalore City                      |     |      |    | 40 |
| -----                                                                                    |     |      |    |    |
| EXHIBIT N \                                                                              |     |      |    | 45 |
| To                                                                                       |     |      |    |    |
| The Municipal Commissioner,<br>Bangalore City Municipality,<br>Bangalore                 |     |      |    | 50 |

Dear Sir,

Re Acquisition of S No 19, Karithimmanahalli  
village, Bangalore Taluk

I received a notice from the District Court, Bangalore that you have made a reference to that Court about the acquisition of the above land, purchased by me. But on referring to the papers in the District Court, I find that you have not made any reference about the extra compensation claimed in my letter dated 15-9-34. I am advised that unless you refer this matter to the Court, the Judge will not enquire about the value of the land. I shall be put to very great loss if you do not refer the matter as the land is very valuable. I am also told by lawyers that the Land Acquisition Officer must refer this matter also if the party wants it. I do not know the reason why it was not referred to the District Judge, although, I requested in my letter of 15-9-34. If no reference is made, the Municipality will have to be responsible for my losses.

I therefore request you to write to District Judge about this extra compensation also claimed by me.

I remain

Yours faithfully,

Bangalore,

Dated 28-7-35

#### EXHIBIT I

Preliminary Notice under L A R

From

The Office of the City Municipality,

Bangalore

Under Sections 9 and 10 of Land Acquisition Regulation

Abdul Huq, owner of Survey No 19, Karithimmanahalli Village, Bangalore Taluk, Kasaba Hobli, is hereby informed as follows —

You are aware that the Proclamation L. 204-7/M C 33-32 dated 10-7-33 for the acquisition of the undermentioned land, was sanctioned by the Government and the same

was notified in the Gazette dated 20--7--33. Accordingly the Government desires to acquire the said land. Hence the Hakdars of the land are hereby directed to be present in the Court at Bangalore on 28--8--33 at 2 p m in person or by some agent duly authorised by them, to settle their claims and the compensation amount due to them. Further, under Section 8 of the Regulation, they will have to submit their objections, if they have any, regarding the measurement of the land. The Pattedar, Hiduvalidar, mortgagee, Shikmidar, or any other person deriving benefit out of the land should submit a statement furnishing details regarding his name, the nature of right, and the profits he derived for the past 3 years, within the above date.

Property The entire abovementioned property—

Vacant land 5 acres

(Sd) P H Krishna Rao,

Land Acquisition Officer,

Bangalore City

Bangalore

20--7--1933

## EXHIBIT II

IN THE COURT OF THE SECOND ADDITIONAL  
SUBORDINATE JUDGE, BANGALORE

L A Miscellaneous Case No 88 of 1936--37

Bangalore, dated the 17th day of May 1937

Present

G Krishnamurthi, Esquire, B A , LL B ,

Second Additional Subordinate Judge, Bangalore

Petitioners —1 Abdul Hukh

2 Mahomed Yusuff

3 Abdul Hussain

4 Abdul Kareem alias Saboolal

5 Mahomed Usman alias Bhashjan

6 Khairumbi alias Ghouse Bee

7 Mahomed Ghouse alias Baba

8 Amenabi

9 V Sampangiramaiah

Vs

Opponents --The Municipal Commissioner, Bangalore

This is an application under Section 31 of the Land Acquisition Regulation relating to the Acquisition of Survey No 19, Karithimmanahalli Village, Kasaba Hobli, Bangalore Taluk, as there is a dispute regarding the apportionment of the compensation amount among nine claimants

10 17--5--37 9th claimant by Mr J Iyengar for D K 1  
says that he has in his statement taken objection about the  
adequacy of compensation also But that question cannot  
be gone into as the reference is only under Section 31 Land  
Acquisition Regulation

51

(Intld ) G K ,

Second Principal Subordinate Judge

20 9th claimant examined 2 witnesses and closes

## ORDER

25 The question referred to Court is one of the apportionment under Section 31 of Land Acquisition Regulation  
So many as nine persons are shown as interested persons with  
property but excepting the 9th none else turned up and urged  
any claim despite several notices The 9th claimant claims  
the entire compensation for himself excepting that for a  
30 small portion which he says he has sold to one Nanjappa  
He was called upon to prove his title He has examined  
himself and one witness who is none other than the 1st  
claimant and from whom he derives his title The 1st claimant  
C W 1 says he got this land by way of gift from  
35 his father and was solely entitled to this land and that he was  
paying its assessment on Exhibit E the patta shows  
Exercised acts of ownership by hypothecating it to the 9th  
claimant under Exhibit A and finally selling it to the 9th  
claimant under Exhibit B Subsequent to this sale the 9th  
40 claimant has got its patta made in his name as Exhibit F  
shows and has also paid its kandyas as Exhibits G to L show  
All this shows that the 1st claimant was the owner and that  
title was conveyed to the 9th claimant I hold 9th claimant  
45 to be the owner and entitled to the compensation The 9th  
claimant concede that he has sold a site measuring 120 x 40'  
out of this to one Nanjappa (who is not on record) and the  
compensation proportionate to that should go to him Reserving  
the compensation on that area which comes to Rs 15-12-0

the balance of Rs 703 will be paid to the 9th claimant  
Sampangiramaiah No costs In open Court

(Sd ) G Krishnamurthi,

Second Additional Subordinate Judge,

17-5-37

Produced by defendant's counsel in Court on  
5-11-40 Proved by P W 3

### EXHIBIT III

O S No 34 of 39-40

To

The Municipal Commissioner,

Bangalore City

Petition of V Sampangiramaiah, Oil Merchant, Mysore  
Road, Chamarajpet, Bangalore City

1 The entire dry land bearing Re survey No 19,  
situate adjacent to the Mysore Road, near  
Pt 2559 Karithimmanahalli Village, Kasaba Hobli,  
Bangalore Taluk, having come to my posses-  
30-11-33, sion from M G Abdul Hukh, residing at  
Kadugodi Muniappa's Lane, Gollarpet of this  
City, by virtue of hypothecation, mortgage  
Memo and sale, has been in my enjoyment for the  
Forwarded to last two years or thereabouts  
the Municipal Engineer for re-  
port 2 I had been to the said land on  
16-11-33 to prepare an estimate for the  
erection of a building for Soap Factory  
(Sd ) The said land has been measured and  
marked by lines When I made enquiries  
at the neighbourhood of the said land as to  
For Ml Comr 29-11-33 who did this, I was informed that the  
So, Municipality did it I am not aware of the  
for report reason why it was marked thus  
(Intld ) 3 I pray that I may be informed why  
Ml Engr without information to me, the owner of  
1-12-33 the said dry land S No 19, there was a  
F E F 152 trespass on it and why markings have  
2-12-33 been made therein

(Sd ) V Sampangiramaiah

Dated 29-11-1933

Submitted,

The land in question has already been taken possession under Section 17 of Land Acquisition Regulation from one Abdul Hukh. The petitioner's claim may be considered at the time of making payment to Abdul Hukh. Sites have been marked and sold. This may be referred to the Land Acquisition branch.

(Sd) M S Seshagiri Rau,

18-1-34

Memo

III  
M E N  
152

Submitted to the Municipal Commissioner for favour of kind information

22-1-34  
Pet 2359

(Sd) M A Ramanujam,  
Ml Engineer  
22-1-34

27-1-34  
L A Clerk  
(Intld)  
23-1-34

Commissioner's Order —

I include him as a claimant when sending the amount to Court

#### EXHIBIT IV

Plan

#### EXHIBIT V

Chief Secretariat

No L 208—Ml 33—32—115, dated 10th July 1933

Whereas it appears to the Government of His Highness the Maharaja of Mysore that the undermentioned land, situated in Karithimmanahalli village, Kasaba Hobli, Bangalore Taluk, Bangalore District, is needed for a public purpose to wit, for being laid out into sites for allotment to the men discharged under the reorganisation of Infantry Regiments, notice to that effect is hereby given to all whom it may concern, in accordance with the provisions of Section 4 (1) of the Land Acquisition Regulation of 1894, as amended by the Land Acquisition Amendment Regulation No 1 of 1927 and

the Government hereby authorise the Municipal Commissioner, City Municipality, Bangalore and his subordinates and also to exercise the powers conferred by Section 4 (2) of the Regulation Under Sub Section (4) of Section 17 of the Land Acquisition Regulation of 1894, as amended by Regulation No 1 of 1927, the Government direct that, in view of the urgency of the case, the provisions of Section 5-A of the Regulation shall not apply to the acquisition of the land 5  
noted below —

|                                                                                                  |                                                          |            |
|--------------------------------------------------------------------------------------------------|----------------------------------------------------------|------------|
| Bangalore                                                                                        | District                                                 |            |
| Bangalore                                                                                        | Taluk                                                    |            |
| Kasaba                                                                                           | Hobli                                                    |            |
| Karithimmanahalli                                                                                | Village                                                  |            |
| Abdul Sattar bin<br>Mohamed Ghouse (Kha-<br>tedar), Abdul Hukh<br>(Present owner)                | Name of khatedar<br>or<br>Owners.                        |            |
| 19                                                                                               | Survey No                                                |            |
| Vacant land                                                                                      | Vacant site, house<br>(tiled, terraced<br>or mud-roofed) |            |
| 5 acres                                                                                          | Total extent in<br>sq yards or<br>ankanams               |            |
| 5 acres, Assessment Rs 6                                                                         | Extent now<br>required                                   |            |
| Survey No 17 of Kari<br>thimmanahalli                                                            | East                                                     |            |
| Municipal land and<br>Survey No, 20 of<br>Karithimmanahalli                                      | West                                                     | Boundaries |
| Government land (old<br>butt fire land on which<br>sites now allotted to<br>Military pensioners) | North                                                    |            |
| Municipal land                                                                                   | South                                                    |            |

No L 209—Ml 33- 32—116, dated 10th July 1933

Under Section 6 of the Land Acquisition Regulation of 1894, as amended by the Land Acquisition Amendment Regulation No 1 of 1927, the Government of His Highness the Maharaja of Mysore, declares that the land whose measurements are noted below, be the same a little more or less, is needed for a public purpose, to wit, for being laid out into sites for allotment to the men discharged under the re organisation of Infantry Regiments and under Sections 4 and 7 of the same Regulation, the Municipal Commissioner, Bangalore City Municipality, is appointed to perform the functions of a Deputy Commissioner under the Regulation and directed to take orders for the acquisition of the said land Under Sub Section (1) of Section 17 of the Regulation, the Government further directs that the possession of the said land may be taken on the expiry of fifteen days from the date of publication of the notice mentioned in Section 9(1) of the Regulation A plan of the land is kept in the office of the Municipal Commissioner, City Municipality, Bangalore and may be inspected at any time during office hours

|                                                                                       |    |    |
|---------------------------------------------------------------------------------------|----|----|
| Bangalore                                                                             | 19 | 25 |
| Bangalore                                                                             |    |    |
| Kasaba,                                                                               |    |    |
| Karithummanahalli                                                                     |    |    |
| Abdul Sattar bin Mohamed Ghouse (khatedar) present owner Abdul Hukh                   |    |    |
| Vacant land                                                                           |    |    |
| 5 acres                                                                               |    |    |
| 5 acres, assessment Rs 6                                                              |    |    |
| Survey No 17 of Karithummanahalli                                                     |    |    |
| Municipal land and Survey No 20 of Karithummanahalli                                  |    |    |
| Government land-old butt fire land on which sites now allotted to Military pensioners |    |    |
| Municipal land                                                                        |    |    |

By Order,

(Sd ) R Ranga Rao,

Chief Secretary to Government

(On the reverse)

The property is notified in the name of Abdul Sattar bin Mohamed Ghouse Mohamed Ghouse is dead He left three sons—Abdul Sattar, Abdul Wahab and Abdul Khudus All of them are dead with their wives but Abdul Khudus who is no more has left a widow by name Ameenabi Abdul Sattar leaves a son by name Abdul Hukh Abdul Wahab leaves two sons Abdul Kareem and Mohamed Usman (still a minor) and

a daughter Khairaoombi who is married to one M Mohammed Yusuff under whose care and protection the said Abdul Kareem and Mohamed Usman are living at No 8, Queens Road, C & M Station, Bangalore Abdul Khudus has got a minor son by name Mohamed Ghouse alias Baba who with  
 5 his widowed mother Ameenabi is under the care and protection of one Abdulla Hussein, Care of Abdul Ravoof, Proprietor of Motor Service, Doddamavalli, Bangalore City Abdul Hukh is residing as Jutka owner, Kadagudi Muniappa s lane, Kumbharpet, 5th Division, Bangalore City

- -

EXHIBIT VI

To

The Municipal Commissioner,

Bangalore City

Petition relating to the dry land bearing Re Survey  
 No 19, Karithimmanahalli Bangalore City

V Sampangiramiiah,

Oil Mandi, Chamarajpet,

Bangalore City

29-11-1933

- -

EXHIBIT VII

Produced by plaintiff's witness 5 O S No 34 of  
 39-40

Exhibit VII (Intld) G P

District Judge,

5-11-40

IN THE COURT OF THE DISTRICT JUDGE,  
 BANGALORE

Miscellaneous Case No 58 of 1934-35

Claimants -1 Abdul Hak x x x x x

9 V Sampangiramiiah

Vs

Respondent The Land Acquisition Officer

The 9th claimant begs to state —

1 The property acquired by Government and which is the subject matter of this proceeding, viz, S No 19 in Karithimmanahalli, Bangalore Taluk, was mortgaged by the owner Abdul Hak along with other properties to this claimant on 25—2—32 for Rs 4,500, (Rupees Four thousand five hundred) lent by him under registered deed of that date 5

2 This property was subsequently sold by the said Abdul Hak to this claimant on 9—11—1933 for Rs 3,000 (Rupees three thousand) under registered deed of that date 10

3 A portion namely, 120 ft x 40 ft of this property consisting of 5 acres has been subsequently sold by this claimant to one B P Nanjappa for Rs 500 (Rupees five hundred) on 25—1—34 under a registered deed 15

4 This claimant and the said Nanjappa are therefore proportionately entitled to the compensation awarded by the Land Acquisition Officer and to be awarded by this Honourable Court 20

5 The amount awarded by the Land Acquisition Officer is very inadequate He does not give any reasons or data as to how he assesses the value of the land, his decision to award at Rs 125 (Rupees one hundred and twenty five) an acre is arbitrary and does not proceed upon any basis His inspection of the plot is insufficient He has not found out the market value of the property The award is therefore bad in law and has to be remitted to him for ascertaining the value and making an award, nor has the Land Acquisition Officer taken into consideration any of the circumstances mentioned in Section 23 of the Land Acquisition Regulation 25 30 35

6 The Land acquired is situated in a very important locality and in the vicinity of the Chamarajapet Extension The market value of the property is very high in the said locality This claimant consequently claims at Rs 1 000 (Rupees one thousand) and is entitled to Rs 4,750 exclusive of the statutory allowance and the interest on the amount awarded No person other than this claimant and the said Nanjappa is entitled to claim the amount of compensation 40

7 Wherefore this claimant prays that compensation may be awarded at the rate mentioned in para 6 above along with interest and the costs of this proceeding

(Sd ) V Sampangiramiiah,

(In Kannada )

9th Claimant

Bangalore City,

23d December 1935

10

(Sd ) M R Janardhan,

Advocate for

9th Claimant

11

I, the 9th claimant abovenamed, do hereby solemnly affirm and declare that what is stated in paras 1 to 7 above is true to the best of my knowledge, information and belief

20

(Sd ) V Sampangiramiiah,

(In Kannada)

9th Claimant

25

Bangalore City,

23rd December 1935

30

# EXHIBIT VIII

IN THE COURT OF THE DISTRICT JUDGE,  
BANGALORE

35

Original Suit No 34 of 1939—40

Plaintiff —Sampangiramiiah

Vs

40

Defendant —Municipal Commissioner, Bangalore

Proved by P W 5 O S No 34 of 39—40

45

Exhibit VIII

(Intld ) G P ,

District Judge,

5—11—40

By Advocate Clerk

(Intld ) S G ,

Sheristedar,

31—5—37

5

No amount received

(Intld ) M S R ,

11—6—

10

Seal of the Subordinate Judge s Court, Bangalore,  
March 1937

IN THE COURT OF THE ADDITIONAL SUB-JUDGE, 15  
BANGALORE

Mis Case No 88 of 1936—37

Claimants - 1 Abdul Hak x x x 20

9 Sampangiramiiah

Vs

Respondent The Land Acquisition Officer 25

The 9th claimant prays that the amount in deposit in  
the above case may be paid to him as per orders of the Court  
on 17—5—37 30

Bangalore City

Dated 31—5—1937

(Sd ) V Sampangiramiiah,

35

(In Kannada)

9th Claimant

(Sd ) M R Janardhan,

Advocate for

40

9th Claimant

Rs 718-12-0 deposited under R O No 78 of 25-6-37  
Received from the District Judge 45

(Intld ) (Not clear)

Sub Judge

28- 6—37

50

Submitted —Out of the amount in deposit Rs 703  
may be paid to Sampangiramiiah, 9th claimant through cheque  
after identification

(Intld ) (Not clear )

29-6-37

„ S G

29-6-37

Issue Cheque

(Sd ) G K ,

Additional Sub Judge

10

EXHIBIT IX

To

The Municipal Commissioner,  
Bangalore City Municipality,

51

Bangalore

Dear Sir,

Re Acquisition of S No 19, Karithimmanahalli  
Village, Bangalore Taluk

20

I received a notice from the District Court, Bangalore  
that you have made a reference to that Court about the acqui-  
sition of the above land, purchased by me But on referring  
to the papers in the District Court, I find that you have not  
made any reference about the extra compensation claimed in  
25 my letter dated 15-9-34 I am advised that unless you re-  
fer this matter to the Court, the Judge will not enquire about  
the value of the land I shall be put to very great loss if you  
do not refer the matter as the land is very valuable I am  
30 also told by Lawyers that the Land Acquisition Officer must  
refer this matter also if the party wants it I do not know  
the reason why it was not referred to the District Judge,  
although, I requested in my letter of 15-9-34 If no refer-  
ence is made, the Municipality will have to be responsible for  
35 my losses

I therefore request you to write to District Judge,  
about this extra compensation also claimed by me

40

Bangalore,

28-7-35

I remain,

Yours faithfully,

(Sd ) V Sampangirami

Address —

(in Kannada)

45

V Sampangiramiiah,

Oil Mandy, Chamarajapet,

Bangalore City

## EXHIBIT IX(a),

Has no reference been made ?

Had the party asked for a reference?

(Intld )

29 7—35

## EXHIBIT X

To

10

The Municipal Commissioner,

Bangalore City

Petition of V Sampangiramiiah, Oil Mandy, Mysore  
Road, Chamarajpet, Owner and the person in  
possession of Re S No 19 Karithimmanahalli,  
Bangalore City, Kasaba Hobli

15

The petitioner is not in receipt of any reply regarding  
the petition dated 29—11—33, submitted by him in connection  
with the above land He prays that an endorsement may be  
sent in this behalf, as soon as you are in receipt of this  
Bangalore City,

20

Obediently yours,

25

25—8—34

(Sd ) V Sampangiramiiah,

30

## EXHIBIT XI

Valuation statement for acquiring Survey No 19 of Karey Thimr  
Military Pensioner

| Serial No | District  | Taluk     | Hobli  | Village           | Name of Khatedar or owner                                            | Survey No | Dry, wet or garden | Total extent | Kharab | Acquiring extent | Assessment | Desc        |
|-----------|-----------|-----------|--------|-------------------|----------------------------------------------------------------------|-----------|--------------------|--------------|--------|------------------|------------|-------------|
| 1         | Bangalore | Bangalore | Kasaba | Karethummanahalli | Khatedar Abdul Sattar bin Mohamed<br>Ghouse-Present owner Abdul Hukh | 19        |                    | 5 acres      | Nil    | 5 acres          | Rs 6       | V ca t land |

Checked  
(Intld ) (Not clear),  
7-2-33

(Sd ) (Not clear),  
Overseer,  
2-2-33  
V A Ramant,  
Municipal Engineer  
4-2-33

## EXHIBIT XI

Survey No 19 of Karey Thimmanahally, 7th Division, Bangalore City allotting sites to Military Pensioners

| Dry wet or murli<br>Total extent<br>Kharab<br>Acquiring extent<br>Assessment<br>Description of property<br>Area<br>Cost      | Extent now required |                                                                                        | Boundaries |       |  |  | Remarks |
|------------------------------------------------------------------------------------------------------------------------------|---------------------|----------------------------------------------------------------------------------------|------------|-------|--|--|---------|
|                                                                                                                              | East                | West                                                                                   | North      | South |  |  |         |
| Nil                                                                                                                          |                     |                                                                                        |            |       |  |  |         |
| 5 acres                                                                                                                      |                     |                                                                                        |            |       |  |  |         |
| Rs 6                                                                                                                         |                     |                                                                                        |            |       |  |  |         |
| Vacant land                                                                                                                  |                     |                                                                                        |            |       |  |  |         |
| 5 acres                                                                                                                      |                     |                                                                                        |            |       |  |  |         |
| 5 acres of land at Rs 125 per Rs a p<br>acre=<br>Statutory allowance, and<br>abatement of revenue as per<br>Amildar s report |                     |                                                                                        |            |       |  |  |         |
|                                                                                                                              |                     |                                                                                        |            |       |  |  |         |
| Total                                                                                                                        | 882 13 0            |                                                                                        |            |       |  |  |         |
| Survey No 17 of Kareythimmanahalli                                                                                           | East                | West                                                                                   | North      | South |  |  |         |
|                                                                                                                              |                     | Municipal land and S No 20 of<br>Kareythimmanahalli                                    |            |       |  |  |         |
|                                                                                                                              |                     | Government old Butt fire land on<br>which sites now allotted to military<br>pensioners |            |       |  |  |         |
|                                                                                                                              |                     | Municipal land                                                                         |            |       |  |  |         |
|                                                                                                                              |                     | The value of land is fixed as per<br>Amildar s report to Government                    |            |       |  |  |         |

(Sd) (Not clear,)

Overseer,

2-2-33

V A Ramanujam,

Municipal Engineer,

4-2-33

(Sd) V L Thanigachalam,

Surveyor,

2-2-33

## EXHIBIT XI(a)

Valuation statement for acquiring Survey No 19

Exte

| District  | Taluk     | Hobli  | Village            | Name of Khatedar or owner                                            | Survey No | Dry, wet or garden | Total extent | Kharab | Remaining extent | Assessment | Description of property |
|-----------|-----------|--------|--------------------|----------------------------------------------------------------------|-----------|--------------------|--------------|--------|------------------|------------|-------------------------|
| Bangalore | Bangalore | Kasaba | Kare Thimmanahalli | Khatedar Abdul Sattar bin Mohamed<br>Ghouse-Present owner Abdul Hukh | 19        |                    | 5 acres      | Nil    | 5 acres          | Rs 6       | Vacant land             |

(Sd ) (Not clear),

7—2—33

(Sd ) V T Thanigachalam,

Surveyor,

2—2—33

(Sd ) V K s

## EXHIBIT XI(a)

t for acquiring Survey No 19 of Karey Thummanahally

Extent now required : Boundaries

| Total extent | Remaining extent | Assessment | Description of property | Area    | Cost                                                                                                                                                            | East                               | West                                                | North                                                                                         | South          | Remarks                                                             |
|--------------|------------------|------------|-------------------------|---------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------|-----------------------------------------------------|-----------------------------------------------------------------------------------------------|----------------|---------------------------------------------------------------------|
| 5 acres      | Nil              | 5 acres    | Vacant land             | 5 acres | 5 acres of land at Rs 125 per Rs a p<br>acre = 625 0 0<br>Statutory allowance and<br>abatement of revenue as per<br>Amildar's report 257 13 0<br>Total 882 13 0 | Survey No 17 of Kareythummanahalli | Municipal land and S No 20 of<br>Kareythummanahalli | Government land (old Butt fire land) on<br>which sites now allotted to military<br>pensioners | Municipal land | The value of land is fixed as per<br>Amildar's report to Government |

(Sd) V K Sivarama Iyer,  
Overseer,(Sd) M A Ramanujam,  
Municipal EngineerKangachalam,  
Surveyor,  
2-2-33



## EXHIBIT XII

12

Submitted

Ml Commr No L A No N 41/33—34 D/9—9—33 5

As per Commissioner's orders Survey No 19 of Karey Thimmanahally village, Kasaba Hobli, Bangalore Taluk has been taken possession of from the party. The party's acknowledgment is taken on the back of the plan sent with the above reference 10

M E F /1 file

70-15-9-33

(Sd ) V T Thanigachalam, 15

Surveyor

15-9-33

(Sd ) V K Sivaram Iyer, 20

Overseer

15-9-33

Memo 25

Submitted to the Commissioner for information

(Sd ) M A Ramanujam, 30

Ml Engineer

EXHIBIT 'XII(a) 35

Immediate

L A No 41 of 33-34

Enc { One sanctioned plan 40  
One Gazette Notification

Memo

The Municipal Engineer is requested to take possession of Survey No 19 of Karthimmanahally village, Kasaba Hobli, Bangalore Taluk, Bangalore under Section 17 of the Land Acquisition Regulation in accordance with Government Order No L 204-7/Ml 33-32-114 dated 10th July 1933 45

A copy of the sanctioned plan and a copy of the Gazette Notification are herein enclosed for reference and return along with the report

The matter may be treated as very urgent

(Sd ) P H Krishna Rao,  
Municipal Commissioner,  
Bangalore City Municipality

10

---

EXHIBIT XII(b)

L A No 44 of 33—34

Memo

15

In connection with the acquisition of Survey No 19 of Karithimmanahalli village, Kasaba Hobli, Bangalore Taluk, sanctioned under Government Order No L 204—7, MI 33—32—114 dated 10—7—33 for being laid out into sites for allotment to the men discharged under the re organisation of Infantry Regiments the undersigned proposes to inspect the property on 14—9—1933

20 The Municipal Engineer will direct the concerned Overseer to be present at the spot on that day

25 A copy of the sanctioned acquisition plan and a printed copy of the Gazette Notification were sent to him with this Office No L A No 41 of 1933—34 dated 7—9—33 requesting him to take possession of the said property under  
3 Section 17 of the Land Acquisition Regulation

(Sd ) P H Krishna Rao,  
Municipal Commissioner,  
Bangalore City Municipality

30

---

EXHIBIT 'XII(c)'

Submitted

40

Commr No L A 44 of 33—34  
The Municipal Commissioner inspected the property  
to day

(Sd ) V T Thanigachalam,

45

Surveyor

14—9—33

(Sd )

For MI Engineer,

14—9—33

## EXHIBIT XIII

IN THE COURT OF THE DISTRICT JUDGE,  
BANGALORE

Mis Case No 58 of 1934—35

Claimants—V Sampangiramaiah and others

Vs

Opponent—The land Acquisition Officer, Bangalore  
City Municipality

No LI 68 of 1934—35/Enclosures one cheque with final copies  
Office of the Municipal Commissioner,

Dated, Bangalore, 15th November 1934

Seal of the District and Sessions Court, Bangalore,  
20—11—34

From

The Municipal Commissioner,  
Bangalore City

To

The District Judge,  
Bangalore Division, Bangalore

Sirs,

Under Section 31 of the Land Acquisition Regulation,  
I have the honour to refer for disposal the case relating to  
the acquisition of S No 19 of Karithimmanahalli village,  
Kasaba Hobli, Bangalore Taluk required for being laid out  
into sites for allotment to the men discharged under the  
reorganisation of Infantry Regiments as there are nine  
claimants claiming compensation

The property was acquired in accordance with Gov-  
ernment Order No L 204-7 Ml 33-32-114 dated 10th July  
1933

The persons interested in the property are —

- Messrs —1 Abdul Hakh  
2 Mohamed Yusuff  
3 Abdulla Hussain  
4 Abdul Karim alias Saboolal  
5 Mohamed Usman alias Bashjan  
6 Khairumbi alias Ghouse Bee  
7 Mohamed Ghouse alias Baba  
8 Ammenabi  
9 V Sampangiramaiah

The total amount of compensation awarded in respect of the property inclusive of statutory allowance at 15 per cent is Rs 718-12-0 (Rupees Seven hundred and eighteen and annas twelve only) and a cheque No D 230829 dated 10th November 1934 for the amount on the Bank of Mysore, Ltd, Bangalore is herein enclosed for deposit

A copy of the award and copies of statements filed by the parties are forwarded for reference

10      Receipt of the cheque may kindly be acknowledged  
in the triplicate receipt form herewith sent

I have the honour to be,

Sir,

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Your most obedient servant

(Sd ) M Seshadri,

Municipal Commissioner

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